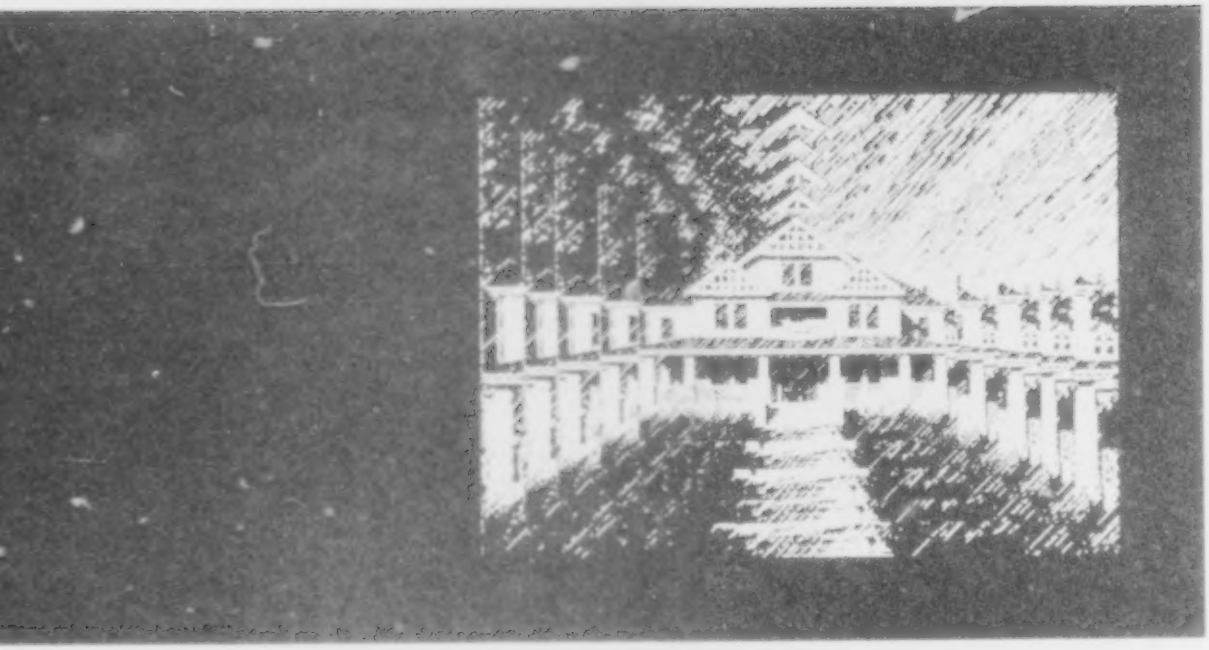
Public Legal Education
and Information Service
of New Brunswick

Doing your own
DIVORCE
in New Brunswick



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This guide was originally researched and written in 1990 by Ginette Thériault for the New Brunswick Advisory Council on the Status of Women (ACSW). PLEIS-NB was pleased to take over this project in 1998. PLEIS-NB produced the ninth edition, which included updated materials and revisions to reflect changes in procedure and substantive law, such as the introduction of the Child Support Guidelines. As well, PLEIS-NB undertook a plain language edit. Justice Canada provided special project funding to help with the preparation and printing of the ninth edition. In 2005, the Child-centred Family Justice Fund of Justice Canada provided funding for a thorough redrafting and updating of the guide. Deborah Doherty Ph.D. and Kelly Buffett B.B.A. LL.B. rewrote the content to make it clearer and more understandable, as well as restructuring the guide into a more logical sequence of steps that would be simpler for users to follow.

We would like to express our thanks to the ACSW for developing earlier versions of this guide. We gratefully acknowledge the assistance and cooperation provided in reviewing the tenth edition by representatives from the Moncton YWCA, members of the Law Society of New Brunswick, Justice Canada, and in particular Registrar Services and Court Services in Fredericton and Saint John, New Brunswick Department of Justice.

This guide is intended for general information only. It does not contain a complete statement of the law in the area of divorce and laws change from time to time. Anyone requiring advice about his or her specific legal situation should contact a lawyer.

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We welcome your comments and suggestions.

They will help in future editions of this Guide.

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1. Introduction to Doing Your Own Divorce

The purpose of this guide is to assist individuals, when appropriate, to prepare the required documents and forms in order to file for their own divorce.

If your marriage has broken down and you are thinking about using this guide to file for a divorce, please read through it very carefully. First, you should determine if the guide is intended for your situation. Next, you should become familiar with the process, the forms and documents that are appropriate in your situation, the timelines, and the procedures for filing and serving documents in a proper fashion.

This guide is designed for use when:

1. **Family Law Matters Settled**
   You and your spouse have already settled issues related to your marriage, such as support, custody and division of marital property. For more information about family law issues that you should settle before using this guide, see Appendix 2 – Issues Related to Marriage Breakdown.

2. **Uncontested**
   You do not expect your spouse to oppose the divorce.

3. **Using Separation as Reason for Marriage Breakdown**
   You have been separated for at least one year and this is the reason for your divorce.

4. **Know where your Spouse Lives**
   You know where your spouse is and you can arrange to have a third party serve the documents on your spouse.

   and

5. **Resident of New Brunswick**
   You and/or your spouse have lived in New Brunswick for at least one year.

Read Appendix 1 – Breakdown of the Marriage to find out more about the terminology related to marriage breakdown.

This guide is not recommended when....

- You want to file for divorce based on adultery or cruelty. This is a more complicated process and **you should hire a lawyer**. (Rather than using either of these grounds, you may wait until you have been separated one year and then use this guide on the basis of the one-year separation.)

- You and your spouse are thinking of getting back together. If there is any possibility of reconciliation, consider going to a marriage counsellor. Ordinarily, the court must postpone a divorce if there is a possibility of reconciliation between the spouses.

- You have not settled any of your family law issues such as support, custody and property division.

See Appendix 3 – Options for settling Custody Support and Division of Marital Property.

- Neither you nor your spouse has been a resident of New Brunswick the past year.

- You do not know the whereabouts of your spouse.

- You believe that your spouse will contest the divorce.

What is a divorce?

A divorce legally ends a marriage relationship. The divorce frees the spouses from their obligations to each other under the marriage. Although the ***Divorce Act*** encourages spouses to become self-supporting, the Court may require one spouse to financially support the other. However, divorce does not change the rights and obligations that parents have to children of the marriage. Parents still have an obligation to support their children financially. The children are also entitled to contact with both parents.

When can you get a divorce?

To apply for a divorce, you must be able to show that there has been a **breakdown of the marriage**. Marriage breakdown means that either

- you have lived separate and apart for one year (includes living under the same roof if you are living as though you are separate and apart), or
- one spouse has committed adultery, or
- mental or physical cruelty has made it intolerable for the spouses to continue to live together.

Remember: This guide only explains doing a divorce based on a one-year separation. You can start the process before the one-year period has ended, however you cannot file the **Trial Record** until the year has finished.

Do I need a lawyer?

If you meet the criteria set out above, normally you do not need a lawyer to do a divorce. However, if you have complications during the divorce process, you should consult a lawyer. You should also consult a lawyer about your rights and interests relating to custody, access, support and division of marital property. Consider hiring a lawyer to review your documents before you hand them in to the court.

How much will a divorce cost?

Using this guide, the cost should be between $125 and $225. The basic cost of the divorce includes the $100 fee for filing the **Divorce Petition**, the $10 fee for the **Clearance Certificate** and the $7 fee for the **Certificate of Divorce**. If you are receiving assistance under the *Family Income Security Act* or from the Domestic Legal Aid Program, there is no filing fee for a divorce application.

Other costs may include:

- this guide
- copies of legislation
- hiring a lawyer for specific questions or tasks
- certified copies of birth and marriage certificates
- purchase of pre-printed forms (usually $1 at the court)
- hiring someone to type forms that are not pre-printed
- photocopying of documents
- hiring someone to serve documents
- fees for a Commissioner of Oaths
- fees for refiling if your documents are incomplete
- fees for witnesses

Please Note: This guide does not offer legal advice. The guide is for general information only. It does not contain a complete statement of the law in the area of family law, and laws change from time to time. PLEIS-NB and its contributors are not responsible for errors and misunderstandings.

If you have a problem or question, consult a lawyer.

2. Steps for Doing Your Own Divorce

Overview of Steps to Doing Your Own Divorce

1. **Prepare Your Petition for Divorce**

2. **Gather Documents to Attach to the Petition**
   a. Marriage Certificate (everyone must attach this)
   b. Financial Statement and Other Income Information (you may need this)
   c. Separation Agreement (attach ONLY if you already have one)

3. **File Your Documents** along with your filing fees and wait for the Court to send the originals back to you with a court file number

4. **Arrange for Service** of the Divorce Petition and Attachments on Your Spouse and **Wait for Reply** (Skip this step if you are doing a Joint Petition)

5. **Prepare the Trial Record** and Get Ready for the Court Hearing or Assessment of Request

6. **Go to the Court Hearing (if there is one)**

7. **Get Your Divorce Judgment**

8. **Ask for Your Certificate of Divorce**

Step 1: Prepare Your Petition for Divorce

> The first step is to prepare your **Petition for Divorce.**
> **(One spouse uses Form 72A / Spouses jointly use Form 72B)**
>
> Read the form before you start.

Decide the Type of Divorce Petition to Use

When you decide to apply for a divorce you must decide whether you will fill out the divorce petition by yourself, or whether you and your spouse will fill out a petition together. Here is what you should know about divorce petitions:

Petition for Divorce (by one spouse) - Form 72A

With this method, **one spouse** fills out the **Petition for Divorce – Form 72A**. This spouse becomes the petitioner. If you use this procedure, you must make sure the documents are served on the other spouse, who will be the *respondent* in the proceedings. Step 4 will explain service. You must then wait the appropriate length of time and if your spouse does not Answer the petition, you will be able to proceed with your Trial Record. Step 5 will explain how you prepare the Trial Record, including your affidavit of evidence, which must be signed and sworn to in front of a Commissioner of Oaths not more than 5 days before you file the Trial Record.

Joint Petition for Divorce (by both spouses) - Form 72B

With a joint petition, the spouses fill out a **Joint Petition for Divorce – Form 72B**, which they **both** must sign. You and your spouse are both *petitioners*, so you do not have to serve your spouse or wait for an Answer. You and your spouse have the choice of preparing a joint affidavit or two separate affidavits. You both must swear to the joint affidavit, or you must each swear to your individual affidavits, not more than 14 days before you file the Trial Record. This method may be appropriate if you live in close proximity and can easily communicate with one another. Step 5 explains how to prepare the Trial Record and what you need for a joint affidavit of evidence. Although you skip service with this method, the process may not be any shorter because you still must wait for the Clearance Certificate, which can take several weeks. Please note, if you and your spouse are in different provinces, or even different cities, you may have to courier documents back and forth in order to meet filing deadlines.

Once you have decided which petition is best for your situation, you should get the appropriate form.

Where to get the Petition for Divorce form

The **Petition for Divorce (Form 72 A or 72 B)** can be found in the **Forms of Court** http://www.gnb.ca/0062/regs/Form/form_liste.htm. You can get a **Petition for Divorce (Form 72A**, or a **Joint Petition for Divorce - 72B)** from the office of the Court of Queen's Bench, Family Division, in your judicial district. See Appendix 5 for the court addresses. **The form costs one dollar.** Or, you can request either of these forms from:

Registrar Services, Court of Queen's Bench
427 Queen Street, Room 202
P.O. Box 6000
Fredericton NB
E3B 5H1
Telephone: (506) 453-2452

Examples of How to Complete a Divorce Petition

There are **two examples** of divorce petitions in this guide.

- **Example 1.1. Petition for Divorce (by one spouse) - Form 72A**
- **Example 1.2. Joint Petition for Divorce (both spouses) - Form 72B**

Please Note:

- You must fill out the bilingual petition in either English or French. **(Note: At this point you will not have a court file number. The Registrar only stamps on a court file number after you have filed your original divorce petition.)**
- Sign and date it and put your address under your signature.
- When you sign the divorce petition, you do **NOT** have your signature witnessed by a Commissioner of Oaths. Later in the process when you prepare and file your Trial Record, you must have your affidavit of evidence sworn in front of a Commissioner of Oaths. Step 5 will explain what this means.
- If you make reference to a document you will need to attach it to the petition.
- **Check with the Registrar's office for changes**.

Please do not file your petition until you have
all the documents you need to attach to it.
(Step 2 gives you an overview of these documents.)

Step 2: Gather Documents to Attach to the Petition

Step 2 describes the documents you attach to your petition when you file it. It explains what these documents are, who needs to attach which documents and how to get them, if necessary. The documents you may require include:

- ✓ **marriage certificate** (everyone must attach this)
- ✓ **Separation Agreement** (attach ONLY if you already have one) and any Court Orders from family court proceedings
- ✓ **Financial Statement (Form 72J) and Other Income Information** (you may need this, see 'Financial Statement (Form 72J) and Other Income Information' below)

✓ Marriage Certificate

An original marriage certificate is the certificate signed on the day you were married or a certified certificate provided by a provincial administration in the province where you were married. **It is best NOT to use a wallet size marriage certificate because some courts do not accept them.**

You must file an **original marriage certificate**. If you need to get one, you can request it from the province where you were married. See Appendix 4.

Here is how you can get an original marriage certificate if you do not have one.

People married in New Brunswick

If you were married in New Brunswick, you can get a marriage certificate at a Service New Brunswick Centre or from the address below. You can also get one online at www.gnb.ca/0379/apply-e.asp by clicking on the link to the Service New Brunswick Website. Fill out the form. You need a cheque or money order for $25, made payable to the MINISTER OF FINANCE. Mail the form and the cheque or money order to:

Vital Statistics Office
Department of Health and Wellness
P.O. Box 6000
Fredericton NB
E3B 5H1
Telephone: (506) 453-2385

People married in another Canadian province

If you were married in another Canadian province or territory and do not have an original marriage certificate, find the address of the provincial authority in **Appendix 4**. Write and ask for a marriage certificate application form. Mention that it is for a divorce proceeding. There may be specific requirements.

People married outside Canada

If you were married outside Canada, contact your local Vital Statistics office to confirm that your marriage certificate is appropriate. The marriage certificate must be in English or French or there must be a translation provided.

If you just cannot find a marriage certificate

You must make every effort to get your marriage certificate. You must be married in order to get divorced, and the marriage certificate is proof that your marriage existed. Without it, a judge may not be able to grant your divorce. If you cannot find one, in your affidavit of evidence, you will have to give the court enough evidence to show that you must be married, and then explain why it was impossible to get your marriage certificate. If it is possible to obtain your certificate, you must do so or the court can reject your petition.

✓ Separation Agreement and Any Court Orders from Family Court Proceedings

Attach a copy of your Separation Agreement **if you have one**, as well as any court order from a previous family court proceeding.

✓ Financial Statement and Other Income Information

> You can get a **Financial Statement (Form 72J)** from the court office for **one dollar**. For information on how to prepare a Financial Statement, get the PLEIS-NB guide on ***Financial Statement and Income Information***.

There are a number of situations which would require that one or both parties - the petitioner(s) and/or the respondent - file financial statements and other income information. **If you file a Financial Statement with your Petition for Divorce, you must first swear to its truthfulness before a Commissioner of Oaths.** (See "Swearing to Documents" in Section 3.) These situations may require financial documentation:

i. Dependent Children of the Marriage – No Support Arrangement:

All parents have an obligation to support their children. If you apply for a divorce, the Judge has an obligation to ensure that you and your spouse have made appropriate arrangements to support the children of the marriage. If you do not have a child support arrangement, **you must set one up**. In order to determine a proper amount of child support, you will need to prepare a **Financial Statement (Form 72J)** and attach the income information required by the **Child Support Guidelines**.

The required income information includes:

- copies of your **income tax returns** for the last **three tax years**,
- copies of all your **income tax assessments** and **re-assessments** for the **last three tax years**, and
- a copy of your **most recent statement of employment earnings**.

> **Child Support Guidelines:** You can find the *Federal Child Support Guidelines* on line under the Regulations of the *Divorce Act* in http://laws.justice.gc.ca/en/D-3.4/SOR-97-175/index.html.
>
> Or call PLEIS-NB at 1-888-236-2444 and ask to have a free copy mailed to you.

Note: If you and your spouse agree on income figures, you only need to file copies of your income tax returns, assessments and re-assessments for the **past year** instead of the past three years.

ii. Dependent Children of the Marriage – Separation Agreement or Order

If you have a separation agreement or order and it states the annual income of the payor, then the court can accept the agreement and consider that amount to be the payor's current annual income. The court will look at whether the amount is reasonable based on the income information provided by you the payor under the Child Support Guidelines. Generally, the beneficiary does not have to file a Financial Statement or other income information.

iii. Special Expenses – Requested or Included in Support Arrangement

In some cases both parties must file financial information. For example, both parties need to file a Financial Statement and other income information required by the Child Support Guidelines, if asked to contribute to special or extraordinary expenses, if there is an undue hardship claim, or if you are asked to support a disabled adult child.

iv. Spousal Support

If you ask for spousal support and do not have a separation agreement or order, both parties must file a Financial Statement.

v. Division of Property

If you ask for a division of property and do not have a separation agreement or order, both parties must file a Financial Statement.

Play it Safe: Whether or not you are required to file a Financial Statement and other income information, it is a good idea to do so whenever child support or spousal support is involved. If you have children, it is better to include a Financial Statement even if you and your spouse have agreed on child support. The information may be useful to the judge.

If Your Spouse Refuses to File a Financial Statement:
If your spouse does not file a financial statement, then you cannot prove to the court that you made an appropriate arrangement for the support of your child(ren). The court will postpone your divorce. If your spouse refuses to file a financial statement, you will need a lawyer to help you.

RECAP

- ✓ You need an **original marriage certificate** before you file your petition - Form 72A or Form 72B. You can apply for an original marriage certificate if you cannot find yours.
- ✓ You need your separation agreement if you have one already.
- ✓ If your divorce petition involves child or spousal support, you may need to attach financial statements and income information.
- ✓ If you attach a financial statement, a Commissioner of Oaths must witness your signature.

Step 3: File Your Documents

> Step 3 explains what you need to do to file your documents after you have filled out your **Petition for Divorce - Form 72A** or **Joint Petition - Form 72B**. Before you actually prepare your petition, please carefully **read Section 3 – Preparing Forms, Documents and Letters**, so that you do it correctly.

Prepare a Cover Letter (See Example 2) and a Legal Size, Self-Addressed Envelope.

Photocopy Your Documents
Make one photocopy of your:

- Divorce petition
- Marriage certificate
- Separation agreement, if you have one
- Financial Statement and income information, if you have them.

Make sure you have **one original and one photocopy of each document**. Two originals will not be accepted. It is a good idea to make an extra copy of every document for your own records.

Put Together the Required Payments
You must pay two fees when you file your documents. These are:

- **$100 Fee for Filing the Petition**.

  For the filing fee, you need a ***certified cheque*** from a bank or a ***money order*** from the post office. The bank or post office may add a service charge to the $100.00. Make the certified cheque or money order payable to the **MINISTER OF FINANCE**. If you file in person, you can pay in cash, credit card, debit or money order.

- **$10 Fee to get a Clearance Certificate from the Central Registry of Divorce Proceedings in Ottawa.**

  You can pay the $10 with a regular cheque. Make it out to the **RECEIVER GENERAL OF CANADA**. The Central Registry will issue a **Clearance Certificate** to you. It may take several weeks before you receive the Clearance Certificate. **Please note, the Clearance Certificate is NOT your divorce**. For more information about the clearance certificate, see below.

> **Note – Fees sometimes waived:** The Court will waive the fee for filing the petition and the fee to get the clearance certificate for persons who provide written proof from their case worker that they receive income assistance or are applying under the domestic legal aid program.

What is a Clearance Certificate?

A Clearance Certificate is proof you or your spouse have not previously initiated divorce proceedings. The Central Registry in Ottawa receives all Petitions for Divorce in the country. It makes sure that no other Petition for Divorce involving the same people has been filed in any other court. Once you begin a divorce process in New Brunswick or elsewhere in Canada, the file remains active, no matter how long ago it was started. The file is not automatically closed or discontinued. The Registry will issue a Clearance Certificate if there are no other pending divorce proceedings that you or your spouse could have initiated before. If you receive a Clearance Certificate, it means that the Registry has allowed your Petition for Divorce to proceed to the next step. ***This is not your divorce judgment! It does not mean that you are divorced.***

If you do not receive clearance, it means that there is a pending divorce proceeding that you or your spouse filed in another court. The Central Registry will notify both courts. The Registrar of the court where a spouse filed the first Petition will notify that spouse. When one Petition is discontinued, then the other will receive a Clearance Certificate.

Put Together All Required Fees and Documents
Once you have put together all the following documents, you are ready to file them:

- All the original documents (original marriage certificate, separation agreement and financial statement and income information.)
- One set of photocopies of all the original documents
- Certified cheque or money order for $100 for the filing fee
- Cheque or money order for $10 for the clearance certificate
- A cover letter (see Example 2)
- A legal-size self-addressed envelope (8 ½" x 14")

File the Documents
Take them or send them to:

Deputy Registrar of the Court of Queen's Bench
Justice Building, Room 202
427 Queen St.
P.O. Box 6000
Fredericton NB E3B 5H1
Telephone: (506) 453-2452

Get Your Court File Number
When you file your petition, the Deputy Registrar will sign, stamp and write a ***court file number*** on the original Petition for Divorce. The ***court file number*** is very important. That is how the court identifies cases. All the documents you must later prepare in your divorce proceeding must have this file number on them - only the name of the document changes.

> **Note:** If you have read ahead in the guide, please be aware that filing your petition is not the same as filing your Trial Record, which only comes later in the process.

Wait For The Court To Return The Original Documents To You
You must wait for the court office to return the original set of documents to you. They will keep the set of photocopies.

Wait To Get Your Clearance Certificate
The Deputy Registrar will send your **Clearance Certificate** to you when it arrives. It usually takes about 4 to 6 weeks. You may check on the status of your request for a clearance certificate, by writing to:

> **Family Law Assistance Services**
> **Central Registry of Divorce Proceedings**
> **P.O. Box 2730, Station D**
> **Ottawa, Ontario K1P 5W7**

Once you get your **Clearance Certificate** and the Registrar has returned your **original Petition** with a court file number, be sure to keep them in a safe place.

AFTER Filing Your Petition
After the court office returns the original divorce petition to you, you can serve them on your spouse. You **MUST** serve the documents on your spouse **within 6 months** of filing.

You do not have to wait to get your **Clearance Certificate** before serving your spouse. However, you will need to have the **Clearance Certificate** in order to prepare your **Trial Record** (See Step 5). If you are doing a **Joint Petition**, you will skip Step 4, but again, you must wait for the **Clearance Certificate** before you can submit your **Trial Record**.

Changing Your Mind or Correcting an Error
Sometimes a petitioner changes his or her mind after filing the petition, decides to stop proceedings, or needs to correct a mistake on a document. This is what you should know:

- If you want to stop the process after you begin the divorce, contact the Registrar's Office. You must file a **Notice of Discontinuance** (Form 25A) with the Registrar's office and have a copy served on the respondent. See Example 14.

- You can discontinue the proceedings at any time before the close of the pleadings. The pleadings close when you serve a Reply on the respondent (after the respondent has served you with an Answer) or when the time has expired for you to serve a Reply on the respondent.

- Once the respondent files an Answer, you must have the respondent's written consent or permission of the court to discontinue the proceedings.

- If your circumstances change, you discover you made a mistake or left something out, you can change your petition after you file it. You can do this by "**amending**" your original petition. To amend your petition, you must fill in a new **Petition for Divorce** and give it the **same court file** number as the original petition. Write "**AMENDED**" across the title of the form, and underline all the changes.

- On the amended petition, you must complete the **Declaration of the Petitioner** on the last page and include the attachments from the original petition - even the **marriage certificate**.

- File the amended petition at the Registrar's office. The Deputy Registrar will issue the amended petition and return the original to you. Then, serve a copy of the amended petition on your spouse by personal service (See Step 4.) There is no fee to file the amended petition.

  (**Note:** There is a $10 fee if a judge tells you to resubmit your petition because it is incomplete! If you want to change your petition after you have been served with an answer, you need your spouse's consent or the court's permission. In this case, see a lawyer.)

Step 4: Arrange for Service of the Divorce Petition and Attachments on Your Spouse and Wait

Step 4 explains how to serve the Divorce Petition and Attachments on your spouse. After service you can start preparing some of the documents for Step 5. However, before you can complete your Trial Record you must wait for two things. You must wait to receive your Clearance Certificate and you must wait the required length of time for your spouse to Answer the petition. Although you can skip Step 4 if you are doing a Joint Petition, you too must wait for your clearance certificate before completing the next step.

Arranging For Service

Once you receive your original set of documents with attachments back from the Registrar, you are ready to serve them on your spouse. Remember, you must have the petition served within six months of the date that the Deputy Registrar's office received the petition. If you wait more than six months, you will need to ask the court for an extension of time to serve the documents. Requesting an extension is explained at the end of this step.

If you are doing a Joint Petition, you can skip this step. You are both petitioners and there is no need for service.

What does it mean to "serve" documents?
When a person delivers the documents to your spouse, and your spouse accepts them, it is called *serving* the documents. You must inform your spouse that you are applying for a divorce. Your spouse must receive copies of the documents. **You cannot bring or mail the documents to your spouse. Someone else must serve the documents on your spouse**.

When you are ready for Step 4, the first thing you should do is **make two more copies** of the original documents. One set of copies is to serve on your spouse. The other set is for your records.

What You Should Know About Serving Documents

There are several ways to serve documents. You can choose the one that suits you best. Whichever method you choose, you must have "**Proof of Service**". The court requires proof that your spouse has received a copy of the Petition for Divorce and has had a chance to answer. So you must choose a method that allows you to prove you had the documents served on him/her.

Methods of Service

Choose one of the following methods to serve your documents on your spouse:

A. Personal Service
B. Service by Registered Mail or Courier
C. Substituted Service

Note: You <u>cannot</u> fax the documents to your spouse.

A. Personal Service

Personal service is one of the best methods for service. It involves someone (the *server*) hand-delivering the documents to your spouse. You cannot do this yourself. To personally serve documents you can

- Hire a **private company** to do this for you. They are professionals and will have experience serving documents and getting proof of service.

> **Professional Servers:** You can look up private companies that serve documents by checking in the yellow pages of the telephone book under "Process Servers" or check out the web site www.CanadianProcessServing.com

- Ask a **friend** or **relative** at least 19 years old to serve the documents. If you ask a friend or relative to do it, they are the server. You must **prepare your documents for the server as described below.** If you use this method, you will have to prepare an **Affidavit of Service** (Form 18B) and give it to your server.

For personal service, prepare and give the server the following documents:

- The original Petition for Divorce, marriage certificate, separation agreement and any other documents that you filed. This is the same set of original documents that the court sent back to you with a court file number on it after you filed the photocopied set. **Write "A" on the top of your original Petition.**

- A copy of the Petition for Divorce and the other documents. This is the photocopied set of documents that you made after you received the original documents back from the court. This is the set that the server will leave with your spouse. On the **copy** of the Petition for Divorce at the bottom write this note in blue ink:

> **I _____ certify this is a true and correct copy of the original Petition for Divorce.**
>
> **_____ _____**
> **Date Signature of Server**

- An **Affidavit of Service** (Form 18B) that you prepare if your server is a friend or relative. It will have blank spaces that the server will fill out. (See Example 3 - **Personal Service.**) However, you can place the proper names and judicial district, etc, in the gray areas.

> **What is an Affidavit of Service?**
>
> The Affidavit of Service is a written statement made under oath (signed in front of a Commissioner of Oaths) that details that the server did serve the respondent with the attached documents on a specific date and location.

Tell the server where to find your spouse.
Give the server your spouse's home or work address.

When the Server Finds Your Spouse, He or She Must:

- Make sure the person really is your spouse. If your server does not know your spouse well enough to be certain, the server should ask your spouse whether he or she is _____ (name) and ask for a piece of identification, such as a Social Insurance Number or driver's license.
- Write down the type of identification and its number on the **Affidavit of Service** (**See Example 3 – Personal Service**).
- Keep the original document and leave the copies of the Petition for Divorce and the other documents with your spouse (now the Respondent).

Note: If Your Spouse is Not Home
If your spouse is not at his/her place of residence, the server can leave a copy in a sealed envelope, addressed to your spouse, with any adult who appears to be living there. The server must then send another copy of the document, addressed to your spouse at his/her place of residence, by prepaid mail on the same day or the next day. If your spouse is trying to avoid the server, contact a lawyer.

After the Server has Served the Documents, He or She Must:

- Fill in the blanks on the Affidavit of Service (see Example 3) and attach the Affidavit to a copy of the Petition and attached documents.
- Take the Affidavit to a commissioner of oaths and sign it in front of him or her. See section 4.1 on how to find a Commissioner of Oaths. The Commissioner of Oaths will sign after watching the server sign it.
- Return the original Petition for Divorce, the other documents and the Affidavit of Service to you. The Affidavit of Service shows that your spouse was served.

B. Service by Registered Mail or Courier

You may also get someone (the ***server***) to serve the documents by using the registered mail service of the post office or a courier service.

Prepare the Following Documents for Registered Mail or Courier Service:

- A copy of the Petition for Divorce and other documents. This is the photocopied set of documents that you made from the original documents after the court returned them to you. Write "A" on the top of your petition.
- An **Affidavit of Service** (Form 18B). See Example 4-Service by Registered Mail.
- An **Acknowledgement of Receipt Card** (Form 18A) for your spouse to mail back to the server as proof of service. See Example 5.
- A self-addressed stamped envelope for your spouse to use to mail back the Acknowledgement of Receipt Card to the server (optional).

Sending the Documents by Registered Mail
Ask the server to send these documents by registered mail to your spouse. There is a small fee for registered mail, and an extra fee if you need the hard copy of the respondent's signature. Write "Personal and Confidential" on the envelope so that no one other than your spouse will sign for it.

When the server receives the Acknowledgement of Receipt Card or the post office receipt, he or she must:

- Fill in the blanks on the Affidavit of Service.
- Take the Affidavit of Service, along with the Acknowledgement of Receipt Card or post office receipt, to a commissioner of oaths and sign it in front of the commissioner. (**See section 4.1 on how to find a Commissioner of Oaths**.) The Commissioner of Oaths also signs it.
- Give the original documents and the Affidavit of Service back to you.

A Note About Proof of Service for Registered Mail or Courier

- If your spouse does not send the *Acknowledgement of Receipt Card* back to you, Canada Post should be able to supply you with the information needed to show that your spouse did accept service. When you use the Registered Mail service at Canada Post, they provide confirmation that Canada Post received the item for mailing and that the item arrived at its destination. You can find the name of the person who signed for the package and the date of delivery by calling 1-888-550-6333, though some restrictions may apply. Canada Post can fax the signature to you or you can view the signature online at: https://obc.canadapost.ca/emo/basicPin.do?language=en. It is also possible to get a hard copy of the signature from Canada Post, if it becomes necessary, for a fee.

- With courier services, you need to use the *Acknowledgement of Receipt Card.* Some of these services have signature release agreements where the courier can leave the package without getting a signature.

C. Substituted Service

If you need to use this type of service, you will need a lawyer.

If you cannot find your spouse, then it is impossible to serve the documents by the methods above. Under these circumstances, you must ask the court for a substituted service judgment. If the court sees that personal service is impractical, it may make an order to serve the documents in a different way, such as a newspaper ad, or not to require service.

Service Outside of New Brunswick

If your spouse is outside of New Brunswick you can have the Petition and other documents served on your spouse outside of New Brunswick. Many process servers are experienced serving documents outside of New Brunswick. You do not need permission of the court to serve documents outside the province. Proof of service can be obtained the same way as in New Brunswick, by an Affidavit of Service from the person who served the documents, or by an Acknowledgement of Receipt Card that your spouse signed and returned to the server. If your server used registered mail of Canada Post, proof of service would be a copy of the signature from Canada Post.

If your spouse is outside of New Brunswick and did not want to accept service, he or she has the option of making a Motion before the court to set aside the service. He or she must do this in the time period allowed to Answer the petition, which would be 30 days if he/she is elsewhere in Canada or the United States, or 60 days if he/she is anywhere else in the world. If this happens, contact a lawyer.

Getting an Extension of Time for Service

You only have **6 MONTHS** after filing the documents to serve them on your spouse (the Respondent). If you have not served the documents within six months of the date that you filed the petition, you will need to get an extension of time. If you think you will need an extension, be sure to start the process before the six months is up. To do this, you will need a lawyer to bring a motion before the court.

Waiting for an Answer

Before you can go on to Step 5 you must wait to see if you get an Answer after serving the documents

How Long You Wait for an Answer Depends

After your spouse receives the documents, you must wait a certain amount of time to give your spouse (the *respondent*) a chance to serve on you and file an answer to the petition. If your spouse does not oppose the divorce, he or she will not respond. However, even if your spouse does not oppose the divorce, your spouse must serve you with a Financial Statement and the Income Information required under the Guidelines if you ask for child support. If you ask for spousal support, **your spouse must serve a Financial Statement**.

The amount of time you must wait after service depends on where the documents were served on your spouse. If the documents were served:

- In **New Brunswick**, your spouse must answer within **20 days** after service.
- Elsewhere in **Canada or the United States**, your spouse must answer within **30 days** after service.
- Anywhere else in the **world**, your spouse must answer within **60 days** after service.

Note: Your spouse can instead serve you with a ***Notice of Intent to Defend*** (Form 20A) within the allowable time period. This notice allows for an additional **10 days** over the time limit to file and serve the Answer.

Remember: If you and your spouse file a Joint Petition, there is no Respondent, therefore no one can Answer, so you do not have to wait until the time period has expired. However, you will have to wait for your Clearance Certificate to arrive.

If Your Spouse Answers the Petition…Get Legal Advice.

- **An Answer is a defence in a divorce proceeding**. It means your spouse **disagrees** with something in the divorce petition. ***If your spouse serves you with an Answer, you should see a lawyer***.
- You should also contact a lawyer right away if the Answer is served with a Counter-Petition (Form 72F).

If Your Spouse Does *NOT* Answer the Petition…Go Ahead.

- If your spouse does not file an answer within the time given, it means that he or she is not opposing the divorce. You can go to the next step.
- You can also go to the next step and do your own divorce if your spouse serves a Financial Statement or income information without serving an Answer.

Remember to Wait for your Clearance Certificate

You must wait until you receive your divorce Clearance Certificate before you can complete Step 5 because it becomes part of the Trial Record. The Central Registry of Divorce Proceedings in Ottawa will send your divorce Clearance Certificate to the Registrar's office. The Registrar's office will then forward it to you. Expect 4 to 6 weeks from the day that you paid the Registrar until delivery. *Remember, this is not your divorce judgment!*

Step 5: Prepare the Trial Record

After you have filed and served your Petition for Divorce on your spouse, waited for the appropriate time to expire for your spouse to Answer your petition and received your Clearance Certificate, you can continue the proceedings. That means that you must prepare the **Trial Record** – a package of all the relevant documents that the court must review. To determine which documents you need in your **Trial Record**, you will have to determine which way to proceed with the divorce.

There Are Two Ways To Proceed With A Divorce

- **Affidavit Evidence.** With this method you use sworn written statements of fact (*affidavits*). The affidavit provides the evidence to the judge. If you use an affidavit, you do not normally have to go to court. However, even with affidavit evidence, the judge may sometimes require a court hearing, especially if the evidence is unclear and the information is incomplete.

- **Court Hearing**. With this method you would have to go to a hearing and give evidence in court before a judge.

You can ask the court to use one or the other method. People who are using this guide for an uncontested divorce, usually proceed by affidavit evidence. Whether you choose to proceed by affidavit evidence or a court hearing, the next step is to prepare the **Trial Record**.

What is the Trial Record?

The **Trial Record** is a package that contains all of the relevant documents that need to be placed before the court. It shows the court that you have followed all steps required in a divorce process. You prepare it and then file it with the court. The Clearance Certificate must be in the Trial Record, but you can begin preparing the Record while you are waiting for your Certificate. Do not file the Trial Record without the Clearance Certificate. If you do, the court will return the Record to you because it is incomplete.

Please Note: Most of the documents that you have to prepare for your **Trial Record** are **NOT pre-printed forms**. And your affidavit is NOT even a form. It is a signed written statement of facts that you swear or affirm is truthful. In order to prepare your **Trial Record**, you will actually have to create the required documents. Most are very short. Samples of every form you need to create are included in Section 3 - Preparing Forms, Documents and Letters. You must substitute your own relevant information in the grey areas in the samples. You should read Section 3 very closely to be sure you prepare all your documents correctly.

Prepare these Documents for the **Trial Record** in this Order if You Proceed by **Affidavit Evidence:**

1. **Cover Letter** (See Example 6).

2. **Cover Page** (Called the "**Trial Record**". See Example 7 - Assessment of Request for Divorce).

3. **Index**, which is like a table of contents. It lists all the documents in the trial record. Number the documents and show the numbers in the index. (See Example 8.)

4. **Original Petition for Divorce** and its attached documents fastened to it (marriage certificate, and, if applicable, financial statements and other income information and a separation agreement or family court orders if you have them.) An Amended Petition would go here as well.

5. **Proof of Service**, which could be the **Affidavit of Service** or the **Acknowledgement of Receipt Card** (See Examples 3, 4 and 5), should be attached to the front of the original Petition for Divorce.

6. **Clearance Certificate** (the certified copy you received from the Registrar)

7. **Affidavit of Evidence of the Petitioner**, which could have other documents attached to it. **Please note:** Your Affidavit of Evidence must be sworn (signed) in front of a **Commissioner of Oaths** and **not more than 5 days** before you file the Trial Record. For a Joint Petition of Divorce, you must swear to your affidavit **not more than 14 days** before filing the Trial Record. See the next section and Examples 12.1 and 12.2 for information about the affidavit.

8. **Certificate of Readiness** (Form 47B). When you prepare this form, make any necessary changes so the certificate is accurate for your situation. (See Example 9 for affidavit evidence.)

9. **Request for Divorce** (Form 72K). You must complete this form if you want to use affidavit evidence instead of a court hearing. (See Example 11.)

Be sure to make and keep a copy of all your documents for your own records.

Prepare these Documents for the **Trial Record** in this Order
if you **Proceed by Court Hearing:**

1. **Cover Letter** (See Example 6 – footnote).

2. **Cover Page** (the Trial Record – Example 7 – Setting down for trial).

3. **Index**. (See Example 8).

4. **Petition for Divorce** with attached documents (marriage certificate, and, if applicable, financial statements and other income information and a separation agreement if you made one). An Amended Petition would go here as well.

5. **Proof of Service**, which could be the **Affidavit of Service** or the **Acknowledgement of Receipt Card**, should be attached to the front of the original Petition for Divorce.

6. **Answer** received from Respondent.

7. **Clearance Certificate** (certified copy)

8. **Certificate of Readiness** (Form 47B). (See Example 10 for court hearing.)

Be sure to make and keep a copy of all your documents for your own records.

Where To Send The Trial Record

Prepare a letter to the clerk/administrator of the court. See Example 6. Send the Trial Record by mail or deliver it in person to:

> The **clerk/administrator of the Court of Queen's Bench, Family Division** in your judicial district. (The addresses are in Appendix 5.)
>
> **Do NOT send the Trial Record to the Registrar's Office.**

After the Clerk/Administrator Receives the Trial Record

❑ If you are proceeding by Affidavit Evidence

After you have filed your Trial Record, the clerk/administrator will submit it to the judge. There is no court hearing when you choose to proceed by affidavit evidence. The judge reviews the Trial Record and the petitioner's Affidavit to make sure that your information and claims meet with the requirements of the *Divorce Act* and the *Child Support Guidelines*. **This is called an *Assessment of the Request for Divorce*.**

- If all the documents are included, and
- If the information is accurate and complete to support the request for divorce and any related orders about custody, access and support arrangements (called *corollary relief orders*),

Then, the judge will give a **Divorce Judgment** granting the divorce. The judge will write it in the Trial Record. **You should go to Step 7.**

❑ If you opted for a Court Hearing

About two to four weeks after the office of the clerk/administrator receives the documents, you will receive a **Notice of Hearing date**. The notice will tell you the date, time, courtroom and the location for the hearing. **You should go to Steps 6 & 7.**

If you need to change the court date, call the office of the clerk/administrator in your jurisdiction to see if they can change the date. Be sure to give them as much notice as possible.

Please Note: Make sure your Trial Record is accurate and complete before you file it. If the information in the Trial Record is incomplete or inaccurate, then the judge will return the Trial Record to you. Once you have made the Trial Record complete and accurate you must re-file it with the court. There is a $10 re-filing fee. In some cases, the judge may want to talk to you.

Step 6: Get Ready for the Court Hearing (if there is one)

This step is only for those individuals who must attend a Court Hearing. After you receive the Notice telling you the date of your court hearing, you must prepare for the hearing. This section will tell you about the hearing and how to prepare. **If you are proceeding by affidavit evidence you should go to step 7.**

Here is a brief overview of what happens and what to do at a Court Hearing:

A court official will call your name. Stand up. The judge will ask you if a lawyer is representing you. If your spouse is contesting the divorce, you should have a lawyer represent you. After confirming that you are acting on your own behalf, the judge will ask you to take the witness stand. You will have to swear an oath that you are speaking the truth. The judge will ask you the following:

- your name and address.
- if you are the *petitioner* - the person who applied for a divorce.
- if there is any possibility of reconciliation with your spouse.
- what custody, access and support arrangements you have made for any children of the marriage.
- what arrangements you have made for the division of marital property.

If you settled the issues related to the marriage clearly in a separation agreement and you give the court enough accurate information, the judge will give a **Divorce Judgment** granting the divorce.

Tips for the Court Hearing

$ *Reread all the documents* that you or the other spouse filed with the clerk/administrator before you go. Bring a copy with you.

$ *Wear appropriate clothes*. There is no dress code for the public at court, but you should avoid jeans, t-shirts, revealing clothes and flashy jewelry. In deciding what to wear, respect the decorum of the court.

$ *Be early*. Arrive about 15 minutes before court starts.

$ *Stand up* when the judge enters the courtroom. Remain standing until the judge sits down. Stand when you speak.

$ *Speak* clearly and loud enough for the judge to hear you.

$ *Be respectful* to the judge. When the judge speaks to you, always address the judge as "Justice", "Mr. Justice" for a man, or "Madam Justice" for a woman. If you know the judge's last name, call him "Mr. Justice _____" or her "Madam Justice _____".

$ *Do not interrupt* the judge or anyone else when they are speaking.

Step 7: Get Your Divorce Judgment

After your hearing or the assessment of request, the judge will give a **Divorce Judgment granting the divorce.** In either case, the judge will write it in the **Trial Record** and send it to the Registrar.

Step 7 explains what the **Divorce Judgment** means.

When the judge grants your divorce, the **Trial Record** goes to the Registrar of the Court of Queen's Bench in Fredericton. The Registrar will send you the **Divorce Judgment**, together with any **corollary relief orders** in the mail.

You can call the clerk's office first to see if the Divorce Judgment has been signed and sent to the Registrar. (See Appendix 5 for the court office number in your jurisdiction.) You may also call the Registrar at your local court office to find out when you should receive the Judgment.

What is a Divorce Judgment?

A **Divorce Judgment** is an initial ruling that approves your divorce. The Divorce Judgment is **NOT** proof of divorce. It serves as a notice of the date that your divorce will take effect.

Waiting 30 Days – the Appeal Period

Many people do not realize that there is a **30-day appeal period** from the date of the Divorce Judgment. In other words, both you and your spouse have 30 days to appeal the judgment.

Ordinarily, you must wait until the 31st day after the date of the Divorce Judgment for the appeal period to run out. If there are **special circumstances,** and if you and your ex-spouse agree, you can apply to the court for an earlier effective date. You must both sign **Agreement Not to Appeal** (Form 72L). (See Example 15.)

Proof of Divorce - Certificate of Divorce

If neither you nor your spouse appeals during that 30-day period, then ***on the thirty-first day, your divorce is in effect***. At this time, you can apply for your **Certificate of Divorce.** (See Step 8.) The Certificate of Divorce is your proof of divorce.

Step 8: Ask for Your Certificate of Divorce

A divorce becomes effective on the 31st day after the **Divorce Judgment**, unless one spouse appeals. When you are asked for "***proof of divorce***" you must show a **Certificate of Divorce** to prove that your marriage has ended. You must ask for one.

Proving you are Divorced

To have proof that your marriage has ended, you must request a **Certificate of Divorce**. It will not be sent to you automatically. You can apply for the **Certificate of Divorce 30 days after** the date of the Divorce Judgment.

Applying for a Certificate of Divorce

- You can apply to the **Office of the Registrar of the Court of Queen's Bench** in Fredericton for your **Certificate of Divorce**. Prepare a letter requesting the certificate and send it to the Registrar. (See Example 13 for a sample letter.)

  You will need to enclose a **certified cheque** or **money order** for $7, payable to the **MINISTER OF FINANCE**. Send your letter and fee to the:

  Deputy Registrar
  Court of Queen's Bench
  P.O. Box 6000
  Fredericton NB E3B 5H1
  (or deliver by hand to Justice Building, 427 Queen Street, Room 202)

- If you prefer, you can apply for a **Certificate of Divorce** at a **Service New Brunswick Centre** in your area.

You have now completed your divorce.
Congratulations on your hard work!

Your comments on this guide or the divorcing process are welcome. We are continually revising this guide. Please contact us:

PLEIS-NB
P.O. Box 6000
Fredericton NB
E3B 5H1
Fax: (506) 462-5193 or email: pleisnb@web.ca
www.legal-info-legale.nb.ca

Check out Apppendix 6 for other information you might need after your divorce.

3. Preparing Forms, Documents and Letters

Section 3 will help you understand the proper procedures for preparing or completing the various forms, letters and documents for your divorce petition. Only the **Divorce Petition** (Form 72A or 72B) and the **Financial Statement** (Form 72J) are pre-printed forms that you can purchase. You must create the other forms, cover letters and affidavits yourself. For general information about preparing documents for court, see **Tips for Preparing Your Documents**.

Section 2 - Steps For Doing Your Own Divorce explains the steps for filing documents and indicates all of the forms that you must complete to file a divorce petition with the court. Before you actually prepare any of these documents, you should read this section very carefully. If your documents are not properly prepared, the court will send them back to you. This will cost you time and money.

After reviewing Section 2, you should have an idea of which forms, letters and documents you require. We have provided **examples** of all the forms, covering letters and documents that you may need in Section 3. Below is an overview of the documents and where to find them in the guide.

Remember, only some of these forms are preprinted. You must create the others following the examples in the guide. Each form or document contains hypothetical information that is clearly identifiable as shaded or handwritten text. When you fill in your own forms, or create your own documents, you must of course replace the relevant information with the your own accurate information.

You can find the **Forms of Court** (**http://www.gnb.ca/0062/regs/Form/form_liste.htm**) and **Rules of Court** (**http://www.gnb.ca/0062/regs/Rule/rule_list.htm**) on the government of New Brunswick's web site at **www.gnb.ca** under '**Acts and Regulations**'.

Examples of Documents You May Need

Example Number	Type of Document	What you must do	Page Number
Example 1.1	**Petition for Divorce (Form 72A)** This is a preprinted form	You can buy this form for $1 at the court. Review the example to find out how to fill it out as a sole petitioner. Attach cheques for your filing fee ($100) and clearance certificate ($10), marriage certificate and any required financial information.	39
Example 1.2	**Joint Petition for Divorce (Form 72B)** This is a preprinted form	You can buy this form for $1 at the court. Review the example to find out how to fill it out when you are both petitioners. Attach cheques for your filing fee ($100) and clearance certificate ($10), marriage certificate and any required financial information.	53
Example 2:	**Cover Letter for Documents** This is **not** a form	Type this letter to go with your Divorce Petition and attachments when you file them.	62
Example 3:	**Personal Service (Affidavit of Service – Form 18B)** This is **not** a preprinted form	If you use personal service you must create this form for your server. The example shows you how the server must fill it out. The server must have it witnessed by a Commissioner of Oaths.	63
Example 4:	**Service by Registered Mail (Affidavit of Service – Form 18B)** This is **not** a preprinted form.	If you use service by registered mail, you must create Form 18B. The example shows you how the server must fill it out. It must be witnessed.	64
Example 5:	**Acknowledgment of Receipt Card (Form 18A)** This is **not** a preprinted form.	You must create this card for your server to serve on your spouse, or to enclose with service by registered mail or courier.	65

Example 6:	**Cover Letter for the Trial Record** This is **not** a form.	You must prepare this cover letter. The example shows you how to proceed by either affidavit evidence or trial.	66
Example 7:	**Cover Page for the Trial Record** This is **not** a form.	You must prepare this cover page for the Trial Record.	67
Example 8:	**Index for the Trial Record** This is **not** a form.	You must prepare this index, which is like a table of contents, for the Trial Record. The example shows you how to list your documents depending on whether you proceed by affidavit evidence or by trial.	68
Example 9:	**Certificate of Readiness (affidavit evidence)** This is **not** a preprinted form.	You must create this form and complete it for the Trial Record. The example shows you how.	69
Example 10:	**Certificate of Readiness (court hearing)** This is **not** a preprinted form.	You must create this form and complete it for the Trial Record. The example shows you how.	70
Example 11:	**Request for Divorce (Form 72K)** This is **not** a preprinted form.	You must create this form and complete it for the Trial Record. The example shows you how.	71
Example 12.1:	**Petitioner's Affidavit** (for a Petition for Divorce by one spouse) This is **not** a form.	This is a signed written statement of facts that you swear or affirm is truthful. The example shows you how it might look. Section 2 sets out the information you need to include in your affidavit. Have it witnessed by a Commissioner of Oaths not more than 7 days before filing your Trial Record.	72

Example 12.2:	**Petitioners' Affidavit** (for a Joint Petition) This is **not** a form.	This is a signed written statement of facts that you and your spouse swear or affirm is truthful. The example shows you how it might look. Later in this Section you will learn what information you need to include in your affidavit. You and your spouse must have the affidavit witnessed by a commissioner of oath not more than 14 days before filing your Trial Record. You can swear to the affidavit separately.	74
Example 13	**Letter to Request a Certificate of Divorce** This is **not** a form.	After you receive your Divorce Judgment and wait 31 days, you can type this letter to request a Certificate of Divorce. The example shows you how. Don't forget to send a cheque for $7.	76
Example 14	**Notice of Discontinuance (Form 25A)** This is **not** a preprinted form.	If you change your mind and wish to discontinue your application, you must create Form 25A. The example shows you how.	77
Example 15	**Agreement Not to Appeal (Form 72L)** This is **not** a preprinted form	If you are asking to have the divorce take effect earlier than the thirty-first day after the Divorce Judgment, you must create this form and set out the special circumstances that justify the earlier date.	78

Important Information about Preparing Forms and Documents

Tips for Preparing Your Documents

- ✓ Prepare court documents carefully.
- ✓ Read the blank forms and look at the examples before you start.
- ✓ Prepare the document using the bilingual format (Form 72A), but **only fill in the form in either English or French**. See Example 1.1 and 1.2.
- ✓ All documents that you prepare for the court must be on white paper.
- ✓ It is the custom to use legal-size paper (8 ½" x 14").
- ✓ Use only one side of the page.
- ✓ Leave **margins** about 4 centimetres (1 ½") wide on all four sides of the page.
- ✓ You should **type and double-space** (at least one and a half lines) all documents.
- ✓ Do not use handwriting. You can print if your printing is neat and legible.
- ✓ If you print, use a pen with black or blue ink. Do not use a pencil.
- ✓ The court may return any documents that are not easy to read.
- ✓ Make sure that you fill out the forms completely.
- ✓ Place the **court file number** that was stamped on your original petition on all the other documents that require it.
- ✓ You must **sign** the original. Make sure you type or print your name clearly underneath the signature.
- ✓ Always make an extra copy of the documents for your own records.

Terms That You Should Know

Court File Number

When you draft your Petition for Divorce, you must leave the court file number blank. When you file it, the Registrar will place the number in the blank. The same number is used for all documents in the same proceeding. You are responsible for placing this number on all the other documents that require it.

Title of Proceeding

Each case before the court has a title. That is how the court identifies cases. When you are creating the necessary documents and forms relating to your divorce proceeding, they must all have the same title. This is called the "**title of proceeding**". Only the name of the document changes (blank 5).

Example of a Title of Proceeding

Court File Number: 1301_____ **1**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF _____ **2**

BETWEEN

_____ **3**
PETITIONER

- and -

_____ **4**
RESPONDENT

_____ **5**

Notes:

1 The Registrar gives you a **court file number** when you file the Petition for Divorce. You must put this number on every document relating to your divorce.

2 Put the **judicial district** where you will file the documents. The judicial district must be the New Brunswick location where either spouse ordinarily resides. If both spouses live in NB, it is normally filed where the petitioner resides. If there is a court hearing, it will be in this district.

3 Write your full name here (you are the *petitioner* – the one who turns in the petition).

4 Write your spouse's full name here (your spouse is the *respondent* – the one who can respond to the petition). Note: in a joint petition, you are both called petitioner.

5 Write the name of the document and the form number (if there is one) here. For example: Affidavit, Request for Divorce (Form 72K), Index, etc.

Judicial District

Your judicial district is the place where either spouse ordinarily resides, meaning that one of you has lived there for at least a year before applying for divorce. If you have recently moved, you may need to apply in the former district. There are eight judicial districts in New Brunswick. See Appendix 5 for a list of judicial districts in New Brunswick.

Making Copies

Check your copies carefully. Make sure that every copy contains all the pages that are in the original. You must have the original marriage certificate. Check that copies are legible. Make sure none of the text is missing on any of the copies. You need two complete identical sets.

Affidavit

An affidavit is a signed written statement of facts that you swear or affirm is truthful. Although the affidavit is not a form, you should put the "title of proceeding" at the top of it. Making an affidavit is like being a witness in court, answering questions that a judge would ask, only you write down your evidence instead of saying it. An affidavit is not a form. It is a statement that you prepare yourself. It is important to be sure that everything you say in your affidavit is true. Making a false statement in an affidavit is a criminal offence.

When preparing an affidavit, you should

- Put your statements in separate paragraphs.
- Cover one and only one statement of fact in each paragraph.
- Number your paragraphs.
- Include only facts.
- Stick to facts about which you have personal knowledge.
- Stick to statements about facts that are not controversial. In this case, explain where you got your information (for example, give the name of the person who told you) and say that you believe the information.
- Include all relevant facts.
- Do not put in accusations, arguments or irrelevant statements.
- Use clear, unemotional language.

Information Required in Your Petitioner's "Affidavit of Evidence"

If the Respondent did not serve you with an Answer and you would like to proceed by way of *affidavit evidence* rather than an oral hearing, you need to prepare a **Petitioner's Affidavit of Evidence**. You have to include certain information in your affidavit (see below). ***If you are proceeding by way of court hearing, do not prepare an affidavit.***

If you filed **Form 72A – Divorce Petition by one spouse**, you must include all the following information in your affidavit. If you filed **Form 72B - Joint Petition for Divorce**, you must include items **(a), (c), (d), (e), (f), (g), (i), (k),** and **(l)** and also complete items **(g), (k)** and **(l)**. Your affidavit must refer explicitly to both spouses. In either case you must complete **(n)** if you wish the divorce to take effect earlier than the thirty-first day after the judgment.

a. Identify the spouses involved in the divorce proceeding. Also establish that at least one spouse was ordinarily resident of New Brunswick for at least one year immediately before the proceeding began.

b. Give your spouse's last known address and say how you know the address.

c. Give enough information for the court to be satisfied that there is no possibility of reconciliation between spouses, or that in the circumstances it would clearly not be appropriate for the court to satisfy itself of such possibility.

d. Confirm that all the information in the Petition for Divorce is correct, except what you may have specified to the contrary in the affidavit.

e. If you could not put a marriage certificate with your Petition for Divorce, either put a certificate of marriage with your affidavit or say what efforts you made to get a certificate and why it is impossible to get one. In this case you must also state the date and place of marriage and enough facts to prove the marriage.

f. Set out the reason for the breakdown of the marriage that is the ground for divorce. If you are asking for a divorce because of separation, state "the Respondent and I separated on the ___day of ___, 20__ and have remained separate and apart since that date. This has resulted in a permanent breakdown of the marriage. On the date of separation and continuously since then it has been the intention of the Respondent and myself to remain separate and apart." If you tried reconciling since the breakdown of the marriage, but not for a period of more than 90 days, put this information in as well. Also, if it was your intention to remain separate and apart, but it was not your spouse's intention, state that it was "my intention to remain separate and apart."

g. State that there has been no agreement or conspiracy to which you are, either directly or indirectly, a party for the purpose of subverting the administration

of justice, including any agreement, understanding or arrangement to make up or hide evidence or to deceive the court.

h. [Adultery and cruelty. **This item should not apply if you are using a one-year separation as the reason for the breakdown of the marriage.**]

i. Explain the present and proposed custody and access arrangements for each child, if they are different from what you put in the petition for divorce.

j. If you are claiming spousal support, explain your needs and your spouse's ability to pay, referring to the Financial Statements filed. Set out any change in circumstances since the Financial Statements were filed.

j.1. If you are claiming child support, explain the circumstances that support your claim, referring to the Financial Statements and income information filed. Set out the details of any change in circumstances since the Financial Statements and income information were filed.

k. If you are not claiming a division of marital property, confirm that you do not want to claim a division of property at this time. State that you are aware that no application for a division of property under the ***Marital Property Act*** can be made more than 60 days after the divorce takes effect except in the circumstances in subsection 3(4) of the ***Marital Property Act***.

l. If you want the judge to include the provisions of a domestic contract, separation agreement, minutes of settlement, previous court order or any other document in the divorce judgment, refer to the agreement as an exhibit and write down the section number and exact words that you want included.

m. If you claim court costs, set out enough facts to let the court decide whether to award costs.

n. If you are asking to have the divorce take effect earlier than the thirty-first day after the judgment, set out the special circumstances that justify the earlier date. You need to include an **Agreement Not to Appeal** (Form 72L) – **See Example 15**. Note: Thirty-one days is a reasonably short period, so there must be some exceptional circumstance before then that is special enough for the court to make an exemption for you. This is *rarely* granted.

To prepare your affidavit, see **Example 12.1 Petitioner's Affidavit** (for a Petition for Divorce by one spouse) or **Example 12.2 Petitioners' Affidavit** (for a Joint Petition for Divorce). You can review these samples and modify your affidavit to fit your particular situation.

Swearing to Documents

If you prepare an affidavit or a financial statement, you must take them to a person who is a **Commissioner of Oaths**. A Commissioner of Oaths is a person with authority to witness a sworn statement. You must sign the documents and swear that the information in them is true, to the best of your knowledge, in front of the Commissioner of Oaths. Then the Commissioner of Oaths will sign and date the documents.

Finding a Commissioner of Oaths

All lawyers are Commissioners of Oaths. A number of other people may also be Commissioners of Oaths. There are several ways to find a Commissioner of Oaths.

- Look under "Lawyers" in the Yellow Pages (in New Brunswick all lawyers are commissioners of oaths.)
- Find a person authorized by the provincial government to act as a commissioner of oaths at:
  - Service New Brunswick Centres
  - Revenue Offices
  - Your work place
  - Post office
  - Mayor's office
  - Police station.

If you want a list of Commissioners of Oath for your area, Call *Consumer Affairs at 506-453-2682*.

4. Examples of Forms

Below is the list of forms that we have included in this guide. Please remember that the following are all examples and must be adjusted for your particular information and circumstances. While there are some pre-printed forms, most of them must be created by you. See the table in Section 3 for instructions on each form.

Example 1.1: **Petition for Divorce (Form 72A)**

Example 1.2: **Joint Petition for Divorce (Form 72B)**

Example 2: **Cover Letter for Documents**

Example 3: **Personal Service (Affidavit of Service – Form 18B)**

Example 4: **Service by Registered Mail (Affidavit of Service – Form 18B)**

Example 5: **Acknowledgement of Receipt Card (Form 18A)**

Example 6: **Cover Letter for the Trial Record**

Example 7: **Cover Page for the Trial Record**

Example 8: **Index for the Trial Record**

Example 9: **Certificate of Readiness (affidavit evidence)**

Example 10: **Certificate of Readiness (court hearing)**

Example 11: **Request for Divorce (Form 72K)**

Example 12.1: **Affidavit - Supporting Petition by One Spouse**

Example 12.2: **Affidavit - Supporting Joint Petition**

Example 13: **Letter to Request a Certificate of Divorce**

Example 14: **Notice of Discontinuance (Form 25A)**

Example 15: **Agreement Not to Appeal (Form 72L)**

Example 1.1: Petition for Divorce

Court File Number / N° du dossier
1301- 1

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK 2

FAMILY DIVISION

JUDICIAL DISTRICT OF Moncton 3

BETWEEN:

Marie Smith 4 PETITIONER

-and-

Robert Smith 5 RESPONDENT

PETITION FOR DIVORCE
(FORM 72A)

(N.B. *In completing this form, use full width of page in space provided where possible, irrespective of official language used. If space is insufficient, use additional page.)*

TO: *(Insert names and addresses of respondent and person(s) named.)*

Robert Smith
57 Lilac Street
Moncton, NB
E1C 3B3

A LEGAL PROCEEDING FOR A DIVORCE HAS BEEN COMMENCED AGAINST YOU BY THE PETITIONER. THE CLAIM MADE AGAINST YOU APPEARS IN THE FOLLOWING PAGES.

If you wish to defend this proceeding, you or a New Brunswick lawyer acting for you must prepare your Answer in Form 72D and serve it on the petitioner or the petitioner's lawyer and file it in this Court office,

(a) if you are served in New Brunswick, WITHIN 20 DAYS after service on you of this Petition for Divorce, or

(b) if you are served out of New Brunswick but elsewhere in Canada or in the United States of America, WITHIN 30 DAYS after such service on you, or

(c) if you are served anywhere else WITHIN 60 DAYS after such service on you.

If this Petition for Divorce contains a claim for support or support and division of property, you must within the same time, file your Financial Statement in the form prescribed by the Rules of Court, whether or not you wish to defend this proceeding.

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COUR DU BANC DE LA REINE DU NOUVEAU-BRUNSWICK

DIVISION DE LA FAMILLE

CIRCONSCRIPTION JUDICIAIRE DE _____

ENTRE:

_____ REQUÉRANT

- et -

_____ INTIMÉ

REQUÊTE EN DIVORCE
(FORMULE 72A)

(N.B.: *En remplissant cette formule, veuillez employer la largeur totale de la page dans les espaces accordés, si possible, quelque soit la langue officielle utilisée. Au besoin, employez des feuilles supplémentaires.)*

DESTINATAIRES: *(Donner les noms et adresses de l'intimé et des tiers désignés.)*

UNE POURSUITE JUDICIAIRE EN DIVORCE A ÉTÉ ENGAGÉE CONTRE VOUS PAR LE REQUÉRANT. LA DEMANDE FAITE CONTRE VOUS EST ÉNONCÉE DANS LES PAGES SUIVANTES.

Si vous désirez contester cette poursuite, vous-même ou un avocat du Nouveau-Brunswick chargé de vous représenter devrez préparer votre réponse au moyen de la formule 72D, la signifier au requérant ou à son avocat et la déposer au greffe de la cour:

a) DANS LES 20 JOURS de la signification qui vous sera faite de la présente requête en divorce, si elle vous est faite au Nouveau-Brunswick, ou

b) DANS LES 30 JOURS de la signification, si elle vous est faite dans une autre région du Canada ou dans les États-Unis d'Amérique, ou

c) DANS LES 60 JOURS de la signification, si elle vous est faite ailleurs.

Si la présente requête en divorce contient une demande d'ordonnance alimentaire ou une demande d'ordonnance alimentaire et de répartition des biens, vous devez, dans les même délais, déposer un état financier en la forme prescrite par les règles de procédure, que vous désiriez contester ou non la poursuite.

If this Petition for Divorce contains a claim for child support, you must within the same time, file the income information required by the child support guidelines, whether or not you wish to defend this proceeding.

Si la présente requête en divorce contient une demande d'ordonnance alimentaire au profit d'un enfant, vous devez, dans les mêmes délais, déposer les renseignements sur le revenu requis en vertu des lignes directrices sur les ordonnances alimentaires au profit d'un enfant, que vous désiriez contester ou non la poursuite.

IF YOU FAIL TO SERVE AND FILE AN ANSWER, A DIVORCE MAY BE GRANTED IN YOUR ABSENCE, AND, WITHOUT FURTHER NOTICE TO YOU JUDGMENT MAY BE GRANTED AGAINST YOU ON ANY OTHER CLAIM IN THIS PETITION AND YOU MAY LOSE YOUR RIGHT TO SUPPORT OR DIVISION OF PROPERTY.

SI VOUS OMETTEZ DE SIGNIFIER ET DE DÉPOSER UNE RÉPONSE, UN DIVORCE PEUT ÊTRE ACCORDÉ EN VOTRE ABSENCE ET, SANS AUTRE PRÉAVIS, UN JUGEMENT CONCERNANT TOUT AUTRE DEMANDE CONTENUE DANS LA PRÉSENTE REQUÊTE POURRA ÊTRE RENDU CONTRE VOUS ET VOUS POURREZ PERDRE VOTRE DROIT À UNE ORDONNANCE ALIMENTAIRE OU À UNE RÉPARTITION DES BIENS.

If you fail to serve and file an Answer, a Financial Statement or the income information required by the child support guidelines, you may be deemed to have admitted any claim made against you, and JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE.

Si vous omettez de signifier et déposer une réponse, un état financier ou les renseignements sur le revenu requis en vertu des lignes directrices sur les ordonnances alimentaires au profit d'un enfant, vous pourrez être réputé avoir accepté toute demande formulée contre vous et JUGEMENT POURRA ÊTRE RENDU CONTRE VOUS EN VOTRE ABSENCE.

You are advised that:

Sachez que:

(a) you are entitled to issue documents and present evidence in the proceeding in English or French or both;

a) vous avez le droit dans la présente instance, d'émettre des documents et de présenter votre preuve en français, en anglais ou dans les deux langues;

(b) the petitioner intends to proceed in the English language;

b) le requérant a l'intention d'utiliser la langue _____;

(c) you must indicate in your Answer the language in which you intend to proceed; and

c) vous devrez indiquer dans votre réponse la langue que vous avez l'intention d'utiliser; et

(d) if you intend to proceed in or present evidence in the other official language, an interpreter may be required and you must so advise the court administrator at least 7 days before the trial.

d) si vous avez l'intention d'utiliser l'autre langue officielle ou de présenter votre preuve dans cette autre langue, les services d'un interprète pourront être requis et vous devrez en aviser le greffier au moins 7 jours avant le procès.

You may inquire from this Court office the approximate date of the trial of this proceeding and the date and details of any divorce judgment or order granted.

Vous pouvez obtenir du présent greffe la date approximative du procès, ainsi que la date et autres détails de tout jugement de divorce rendu ou ordonnance accordée.

Neither you nor your spouse is free to remarry as a result of this proceeding until a divorce judgment has become effective. Once a divorce judgment has become effective, you may obtain a certificate of divorce from this Court office.

Ni vous ni votre conjoint ne pouvez vous remarier suite à cette instance tant qu'un jugement de divorce n'aura pas pris effet. Dès que le jugement de divorce aura pris effet, vous pourrez obtenir un certificat de divorce du présent greffe.

THIS PETITION FOR DIVORCE is signed and sealed for the Court of Queen's Bench by the Deputy Registrar of the Court at Fredericton, on the _____ day of 7

LA PRÉSENTE REQUÊTE EN DIVORCE est signée et scellée au nom de la Cour du Banc de la Reine par le registraire adjoint de la Cour à Fredericton, ce _____

_____

Deputy Registrar of the Court of Queen's Bench
Justice Building, Queen Street,
PO Box 6000, Fredericton, N.-B. E3B 5H1

Registraire adjoint de la Cour du Banc de la Reine
Palais de Justice, rue Queen,
Fredericton, N.-B. E3B 5H1

PETITION FOR DIVORCE

(Strike out portions that are not applicable.)

CLAIM 8

1 The petitioner claims:

(a) a divorce;

(b) under the Divorce Act,

(i) an order for the custody of the 2 children of the marriage under the age of majority, as provided in section _____ of the separation agreement, dated _____ ___, 20___, a copy of which is attached; and

(ii) an order for the support of the 2 children of the marriage under the age of majority, as provided for in section ___ of the separation agreement dated _____ ___, 20___, a copy of which is attached.

(iii)

(c) under the Marital Property Act

(i)

(ii)

(iii)

(State precisely everything you want the Court to include in the divorce judgment. If you claim child support, set out the number of children under the age of majority, the number of children over the age of majority and the nature and amount of any special expenses claimed. If you claim spousal support, set out the amount claimed as spousal support. If you claim a division of property , set out the nature and amount of relief claimed. If you claim division of property that is not listed in an attached Financial Statement, attach a list of all property that you seek to have divided and set out your claim to each item of property. If you want to include provisions of a domestic contract, separation agreement, minutes of settlement, previous court order or any other documents in the divorce judgment, attach a copy of the document and refer to the specific provisions to be included. If relief is claimed under any other Act, refer to the Act in the claim.)

REQUÊTE EN DIVORCE

(Rayez la mention inutile.)

DEMANDE

1 Le requérant demande:

a) un divorce;

b) en application de la Loi sur le divorce

(i)

(ii)

(iii)

c) en application de la Loi sur les biens matrimoniaux

(i)

(ii)

(iii)

(Énoncer de façon précise tout ce que vous désirez faire inclure dans le jugement de divorce. Si vous demandez une ordonnance alimentaire au profit d'un enfant, indiquez le nombre d'enfants mineurs, le nombre d'enfants majeurs ainsi que la nature et le montant de toutes dépenses spéciales sollicitées. Si vous demandez une ordonnance alimentaire au profit d'un époux, indiquez le montant réclamé à ce titre. Si vous demandez une répartition des biens, décrivez la nature et le montant de la mesure de redressement sollicitées. Si vous demandez la répartition de biens qui ne sont pas mentionnés dans l'état financier annexé, annexez une liste de tous les biens qui feront l'objet de la répartition et établissez une demande relativement à chacun de ces biens. Si vous désirez inclure, dans le jugement de divorce, les dispositions d'un contrat domestique, d'une entente de séparation , le compte rendu d'un règlement amiable, une ordonnance antérieure de la cour ou tout autre document, annexez une copie du document et faites renvoi aux dispositions particulières à être incluses. Si une demande est faite pour une mesure de redressement en vertu de toute autre loi, faites renvoi à la loi dans votre demande.)

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GROUNDS

2 (a) There has been a breakdown of the marriage by reason that: *(Check appropriate box or boxes.)*

☑ (i) the spouses have lived separate and apart since the 29th day of January 2004 and are now living separate and apart.

☐ (ii) the respondent, on or about the _____ day of _____, committed adultery with _____

☐ (iii) the respondent has, since celebration of the marriage, treated the petitioner with physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses.

(b) The particulars of the grounds for the divorce are: *(Set forth fully but concisely all the material facts relied on but not the evidence by which they may be proved.)*

The spouses have lived separate and apart at all times since the separation on January 29th, 2004. Both spouses agreed to the separation.

MOTIFS

2 a) Il y a eu échec du mariage car: *(Cochez la ou les cases applicables.)*

☐ (i) les époux ont vécu séparément depuis le _____ et vivent séparément à l'heure actuelle.

☐ (ii) l'intimé a, le ou aux environs du _____, commis l'adultère avec _____

☐ (iii) l'intimé a, depuis la célébration du mariage, traité le requérant avec une cruauté physique ou mentale qui rend intolérable le maintien de la cohabitation.

b) Les détails des motifs du divorce sont les suivants: *(Énoncez de façon complète et concise les faits déterminants sur lesquels repose la demande mais non les moyens de preuve à l'appui.)*

RECONCILIATION 9

3 (a) There is no possibility of reconciliation of the spouses.

(b) *(Where applicable)* The following efforts to reconcile have been made:

The spouses attended marriage counselling sessions with _____ of Family Services, Moncton, NB in February 2004. The spouses did not resume cohabitation

RÉCONCILIATION

3 a) Il n'y a aucune possibilité de réconciliation des époux.

b) *(s'il y a lieu)* Voici les tentatives de réconciliation qui ont été faites:

PARTICULARS OF MARRIAGE 10

(Attach a marriage certificate or explain its absence)

ÉTAT CIVIL

(Annexez un certificat de mariage ou justifiez son absence.)

4 (a) The petitioner and respondent were married on the 12th day of May 1996, at Moncton, N.B.
(place of marriage)

(b) The wife's surname before marriage was Green

(c) The husband's surname before marriage was Smith

(d) The marital status of each spouse at the time of the marriage was, wife Single

husband Single

(e) The wife was born on the 3rd day of April 1975

(f) The husband was born on the 7th day of June 1974

RESIDENCE AND JURISDICTION 12

5 (a) The petitioner resides at Moncton

in the Province of New Brunswick

(b) The respondent resides at Moncton

in the Province of New Brunswick

(c) ~~The (petitioner OR respondent OR~~ B both the petitioner and respondent) has/have been ordinarily resident in the Province of New Brunswick for at least one year immediately preceding the date of the commencement of this proceeding.

CAPACITY

6 Both the petitioner and the respondent are of the full age of 19 years and neither of them suffers from any legal disability.

4 a) Le requérant et l'intimé se sont épousés le

à
(endroit)

b) L'épouse avait pour nom de famille avant le mariage

c) L'époux avait pour nom de famille avant le mariage

d) Au moment du mariage, l'état matrimonial des conjoints était comme suit:

épouse

époux

e) L'épouse est née le

f) L'époux est né le

RÉSIDENCE ET RESSORT JUDICIAIRE

5 a) Le requérant réside à

dans la province de

b) L'intimé réside à

dans la province de

c) (Le requérant OU l'intimé OU les deux) a/ont résidé habituellement dans la province du Nouveau-Brunswick pendant au moins l'année précédant d'introduction de l'instance.

CAPACITÉ

6 Le requérant et l'intimé ont chacun 19 ans révolus et ne sont pas atteints d'une incapacité juridique.

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CHILDREN

7 (a) The following are all the living children of the marriage as defined by the Divorce Act:

LES ENFANTS

7 a) Les enfants à charge au sens de la Loi sur le divorce sont les suivants:

Full Name Nom et prénoms	Birth date Date de naissance	School and grade or year École et année	Person(s) with whom child lives and length of time child has lived there Personne(s) avec laquelle (lesquelles) réside l'enfant et depuis combien de temps
Anne Smith	May 2, 1998	Victoria School 2nd Grade	Mother since January 29, 2004
Michel Smith	July 7, 2000	Happy Kindergarten	Mother since January 29, 2004

The children ordinarily reside in *(municipality and province, state or country)* Moncton, New Brunswick

Les enfants résident habituellement à *(municipalité et province, état ou pays)* _____

(b) The petitioner seeks an order for custody or joint custody of the following children on the following terms: *(Be sure that this claim agrees with the claim under clause 1(b).)*

b) Le requérant demande une ordonnance de garde ou de garde conjointe des enfants suivants, selon les modalités qui suivent: *(Assurez-vous que la présente demande est conforme à la demande présentée à l'alinéa 1b).)*

Name of Child Nom de l'enfant	Terms of the order Modalités de l'ordonnance
Anne Smith	A custody order as provided in section ___ of the separation agreement dated _____ __, 20__, a copy of which is attached.
Michel Smith	A custody order as provided in section ___ of the separation agreement dated _____ __, 20__, a copy of which is attached.

The respondent

☐ agrees

☐ does not agree with the above terms.

L'intimé

☐ consent

☐ ne consent pas aux modalités susmentionnés.

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(c) The petitioner is not seeking an order for custody and

☐ is content that a previous court order for custody continue in force, or

☐ is attempting to obtain an order for custody in another proceeding, full particulars of which are as follows: *(Give name of court, court file number and particulars of the order or proceeding.)*

c) Le requérant ne demande pas d'ordonnance de garde et

☐ consent à la continuation d'une ordonnance de garde antérieure, ou

☐ tente d'obtenir une ordonnance de garde dans une autre instance, dont les détails sont les suivants: *(Donnez le nom de la cour, le numéro du dossier et les détails de l'ordonnance ou de l'instance.)*

(d) The petitioner seeks an order for access (a visiting arrangement) and is content that the respondent have an order for custody of the following children on the following terms: *(Be sure that this claim agrees with the claim under clause 1(b).)*

Name of child Nom de l'enfant	Terms of order Modalités de l'ordonnance

d) Le requérant demande une ordonnance d'accès (arrangements concernant les droits de visite) et consent à ce que l'intimé obtienne une ordonnance de garde pour les enfants suivants, selon les modalités qui suivent: *(Assurez-vous que la présente demande est conforme à la demande présentée en vertu de l'alinéa 1b).)*

The respondent

☐ agrees

☐ does not agree with the above terms.

L'intimé

☐ consent

☐ ne consent pas aux modalités susmentionnés.

(e) The following is the existing access (visiting arrangement) for the spouse who does not have the children living with him or her: *(Give details such as days of the week, hours of visit and place of access.)*

e) Les droits d'accès actuels (arrangements concernant les droits de visite) de l'époux qui ne réside pas avec les enfants sont les suivants: *(Donnez les détails tels les jours de la semaine, les heures de visite et le lieu d'accès.)*

The respondent has access to the children every Sunday from 10 am to 6 pm at 57 Lilac Street, Moncton, New Brunswick. The respondent also has access for two weeks during the summer months, a two month notice is given to the petitioner.

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(f) The above access (visiting arrangement) is

☐ satisfactory.

☐ not satisfactory.

(If not satisfactory, give reasons and describe how the access should be changed.)

f) Les droits d'accès (arrangements concernant les droits de visite) susmentionnés sont

☐ satisfaisants.

☐ insatisfaisants.

(Si les droits d'accès ne sont pas satisfaisants, en donner les raisons et décrire comment les arrangements devraient être modifiés.)

(g) The order sought in clause (b) or (d) is in the best interests of the children for the following reasons:

g) L'ordonnance demandée en vertu de l'alinéa b) ou d) est dans l'intérêt supérieur des enfants pour les raisons suivantes:

Since their birth I have taken care of the children. There is a strong bond between the children and me. I am able to meet their needs. They have a stable and secure environment with me.

(h) The following changes in the circumstances of the spouses are expected to affect the children, their custody and the access (visiting arrangement) in the future:

h) Les changements dans la situation des époux qui sont susceptibles d'affecter les enfants, leur garde et les droits d'accès (arrangements concernant les droits de visite) sont les suivants:

(i) The existing arrangements between the spouses for support for the children are as follows:

Amount paid Montant payé	Time period (weekly, monthly, etc.) Période (paiement hebdomadaire, mensuel etc.)	Paid by (husband or wife) Montant payé par (l'époux ou l'épouse)	Paid for (name of child) Montant payé pour le bénéfice de (nom de l'enfant)
$520.00 (for both children)	monthly	husband	Anne Smith
	monthly	husband	Michel Smith

i) Les arrangements actuels entre les époux pour les aliments des enfants sont les suivants:

(j) The existing support arrangements

- [x] are being honoured.
- [ ] are not being honoured.

(If not being honoured, specify how much is unpaid and for how long. If you seek an order for payment of part or all of the unpaid amount, be sure to include it in the claim under clause 1(b).)

j) Les arrangements actuels relativement aux versements d'aliments

- [ ] sont respectés
- [ ] ne sont pas respectés.

(Si les arrangements ne sont pas respectés, précisez le montant des arrérages et depuis quand ils sont dûs. Si vous demandez une ordonnance pour le paiement partiel ou total de l'arrérage, assurez-vous qu'une demande en vertu de l'alinéa 1b) est incluse.)

(k) The petitioner proposes that the support arrangements for the children should be as follows: *(Be sure that this claim agrees with the claim under clause 1(b).)*

k) Le requérant propose que les arrangements relatifs au paiement d'aliments pour le bénéfice des enfants soient les suivants: *(Assurez-vous que la présente demande est conforme à la demande présentée à l'alinéa 1b).)*

Amount to be paid Montant à être payé	Time period (weekly, monthly, etc.) Période (paiement hebdomadaire, mensuel, etc.)	To be paid by (husband or wife) Montant à être payé par (l'époux ou l'épouse)	To be paid for (name of child) Montant à être payé pour le bénéfice de (nom de l'enfant)
	monthly	husband	Anne Smith
$520.00 (for both children)	monthly	husband	Michel Smith

(k.1) The nature and amount of any special expenses are as follows:

k.1) La nature et le montant de toutes dépenses spéciales sont comme suit:

Nature of special expense Nature des dépenses spéciales	Amount to be paid Montant à être payé	Time period (weekly, monthly, etc.) Période (paiement hebdomadaire, mensuel, etc.)	To be paid by (husband or wife) Montant à être payé par (l'époux ou l'épouse)	To be paid for (name of child) Montant payé pour le bénéfice de (nom de l'enfant)

(l) The educational needs of the children

- ☑ are being met.
- ☐ are not being met.

(If not being met, give particulars.)

l) Les besoins éducationnels des enfants

- ☐ sont satisfaits
- ☐ ne sont pas satisfaits.

(Si ces besoins ne sont pas satisfaits, donnez les détails.)

OTHER COURT PROCEEDINGS 14

8 The following are all other court proceedings with reference to the marriage or any child of the marriage: *(Give the name of the court, the court file number, the kind of order the court was asked to make and what order, if any, the court made. If the proceeding is not yet completed, give its current status.)*

AUTRES PROCÉDURES JUDICIAIRES

8 Toutes les procédures judiciaires relatives au mariage ou aux enfants à charge sont les suivantes: *(Donnez le nom de la cour, le numéro du dossier, le genre d'ordonnance demandée et l'ordonnance rendue par la cour, s'il y a lieu. Si l'instance n'a pas été menée à conclusion, dites à quelle étape elle se trouve.)*

There are no other proceedings with reference to the marriage or any child of the marriage.

DOMESTIC CONTRACTS, SEPARATION AGREEMENTS, MINUTES OF SETTLEMENT OR OTHER FINANCIAL ARRANGEMENTS 15

9 (a) The spouse have entered into the following domestic contracts, separation agreements, minutes of settlement or other written or oral financial arrangements: *(Give particulars and attach copies. State whether the arrangements are now in effect. If support payments have not been paid in full, state the amount that has not been paid.)*

CONTRATS DOMESTIQUES, ENTENTES DE SÉPARATION, COMPTE RENDU D'UN RÈGLEMENT AMIABLE OU AUTRES ARRANGEMENTS FINANCIERS

9 a) Les époux ont conclu un contrat domestique, une entente de séparation, un compte rendu d'un règlement amiable ou autres arrangements financiers verbaux ou écrits qui suivent: *(Donnez les détails et annexez des copies. Mentionnez s'il y a des arrangements en vigueur. Si des paiements alimentaires sont en souffrance, citez les montants qui n'ont pas été payés.)*

Date	Nature of arrangements / Genre d'arrangement
____ __, 20__	Separation Agreement. A copy is attached as Exhibit "A". The spouses agreed that the petitioner would have custody of the children and the respondent would have access and would pay $520.00 per month to support the 2 children starting ____ __, 20__. The agreement is now in effect. The Respondent is not in arrears.

(b) ***(Where a claim for support or division of property is made, check the appropriate box or boxes.)***

☑ The Financial Statement of the petitioner, in the form prescribed by the Rules of Court, is attached.

☑ The income information of the petitioner required by the child support guidelines is attached.

☐ I claim a division of property not listed in the Financial Statement. A list of all property that I seek to have divided is attached and my claim to each item of property is set out on the list.

☑ The petitioner and respondent agree that corollary relief should be granted as set out above in the petitioner's claim.

b) ***(Lorsqu'une demande d'ordonnance alimentaire ou de répartition des biens est faite, cochez la ou les cases applicables.)***

☐ L'état financier du requérant, en la forme prescrite par les règles de procédure, est annexé à la présente demande.

☐ Les renseignements sur le revenu du requérant requis en vertu des lignes directrices sur les ordonnances alimentaires au profit d'un enfant sont annexés à la présente demande.

☐ Je demande une répartition de biens non énumérés dans l'état financier. Une liste de tous les biens dont je demande la répartition est annexée et ma réclamation de chacun de ces biens y est établie.

☐ Le requérant et l'intimé consentent à ce que les mesures accessoires telles que décrites dans la demande du requérant soient accordées.

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COLLUSION, CONDONATION AND CONNIVANCE

10 (a) There has been no collusion in relation to this proceeding.

(b) *(Where breakdown of the marriage is alleged on the basis of adultery or cruelty, check the box below, unless there has been either connivance or condonation on the part of the petitioner, in which case give full particulars of the facts on which the Court will be asked to find that the public interest would be better served by granting the divorce.)*

☐ There has been no condonation or connivance on the part of the petitioner.

COLLUSION, PARDON ET CONNIVENCE

10 a) Il n'y a eu aucune collusion relativement à la présente demande.

(b) *(S'il est allégué qu'il y a échec du mariage par raison d'adultère ou de cruauté, cochez la case ci-dessous, sauf s'il y a eu connivence ou pardon de la part du requérant, dans ce cas, précisez tous les faits sur lesquels la cour sera appelée à se prononcer pour conclure que l'intérêt public serait mieux servi si le jugement sollicité était rendu.)*

☐ Il n'y a eu aucun pardon ou aucune connivence de la par du requérant.

PLACE OF TRIAL 17

11 The petitioner proposes that this proceeding be tried at

Moncton

LIEU DU PROCÈS

11 Le requérant propose que la présente instance soit

entendu à _____

DECLARATION OF PETITIONER

12 I have read and understand this Petition for Divorce. The statements of which I have personal knowledge are true, and those of which I do not have personal knowledge I believe to be true.

DATED at Moncton, this
City, Prov.
1st day of February,
2005

Marie Smith
signature of petitioner

DÉCLARATION DU REQUÉRANT

12 J'ai lu la présente requête en divorce et j'en comprends le sens. Les faits qui y sont énoncés et dont j'ai une connaissance personnelle sont vrais et je crois être vrais ceux dont je n'ai pas de connaissance personnelle.

FAIT à _____ le _____
Ville, Prov.

_____
signature du requérant

Address for service within New Brunswick:
2 Poplar Street
Moncton, NB
E1C 1A1

Adresse pour fins de signification au Nouveau-Brunswick

STATEMENT OF SOLICITOR

13 *(Where petitioner has retained a solicitor)*

I _____, solicitor for the petitioner, certify that I have complied with the requirements of section 9 of the Divorce Act.

(Where in the circumstances it would clearly not be appropriate to discuss the matters in subsection 9(1) with the petitioner, set out the circumstances.)

DATED at _____, this
_____ day of _____
_____.

_____
signature of solicitor

_____
solicitor's business address

DÉCLARATION DE L'AVOCAT

13 *(Si le requérant a retenu les services d'un avocat)*

JE SOUSSIGNÉ _____
avocat du requérant, atteste m'être conformé aux exigences de l'article 9 de la Loi sur le divorce.

(Si les circonstances en l'espèce sont telles qu'il serait inapproprié de discuter des questions visées au paragraphe 9(1) avec le requérant, indiquez ces circonstances.)

FAIT à _____ le _____

_____
signature de l'avocat

_____
adresse professionnelle de l'avocat

45-3567(01/00)

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End Notes – Petition for Divorce (Form 72A)

1. When you file your petition, the Registrar will assign a file number. You need to put this number on all your court documents.

2. You only need to complete one side of this form (either the English or French side.)

3. See Appendix 5 to choose the judicial district for your county.

4. Give your full name as it appears on the marriage certificate.

5. Give the full name and address of the respondent. Your spouse is the respondent.

6. Write the language (English or French) you prefer to use in the divorce hearing, if there is a hearing.

7. Leave this blank. When the Registrar receives the Petition for Divorce, the Registrar will add the full date.

8. CLAIM – Make your claim very clear. If you are asking the court for custody or access, write the request in this place. Write down if you are asking for support for yourself or a child. If you would like to have provisions of a separation agreement included, refer specifically to the provisions. Attach a copy of the separation agreement to the Petition for Divorce.

9. RECONCILIATION – If you and your spouse did not try to reconcile, strike out paragraph (b). If you did try to reconcile, write out what efforts you made.

10. PARTICULARS OF MARRIAGE – Attach the certified copy of your marriage certificate. Make sure that the information in the Petition for Divorce is the same as the information on the marriage certificate.

11. Place the maiden name in this blank, rather than a former surname from a previous marriage.

12. RESIDENCE AND JURISDICTION – Residence means the place where you are now living. Under the *Divorce Act* you must live in a province for at least one year before the decision of the court.

13. CHILDREN – Check whether the support arrangements proposed in paragraph 7(k) agree with the guidelines. You only need to write down the children that are dependants and that you are requesting support for.

14. OTHER COURT PROCEEDINGS – Give the details if you or your spouse have started other court proceedings concerning the marriage or the children of the marriage.

15. SEPARATION AGREEMENTS – Give details about any agreements and attach a copy.

16. COLLUSION, CONDONATION AND CONNIVANCE – Strike out paragraph 10(b) because condonation and connivance apply to adultery or cruelty.

17. PLACE OF TRIAL – The place of trial must be the same as the judicial district. See note 3.

18. DECLARATION OF PETITIONER – Include your full address. It must be a street address.

DO NOT FORGET TO SIGN AND DATE THIS FORM ON THE LAST PAGE, AND INCLUDE YOUR ADDRESS IN THE SPACE PROVIDED FOR IT.

Example 1.2: Joint Petition for Divorce

Court file number
1301- 1

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF Fredericton[2]

Roger Cook

-and-

Claire Cook[3]

PETITIONERS

Signed and sealed for the Court of Queen's Bench at Fredericton by the Deputy Registrar of the Court at Fredericton on the ____ day of

_____

4

_____
Deputy Registrar

JOINT PETITION FOR DIVORCE
(FORM 72B)

(Strike out portions that are not applicable.)

CLAIM[5]

1 The husband and wife jointly seek:

(a) a divorce;

(b) under the *Divorce Act*
(i)

(ii)

(iii)

(c) under the *Marital Property Act*
(i)

(ii)

(iii)

(State precisely everything you want the Court to include in the divorce judgment. Everything you want to include must have been agreed to by both spouses. If child support is sought, set out the number of children under the age of majority, the number of children over the age of majority and the nature and amount of any special expenses. If you want to include provisions of a domestic contract, separation agreement, minutes of settlement, previous court order or any other document in the divorce judgment, attach a copy of the document and refer to the specific provisions to be included.)

GROUNDS

2 There has been a breakdown of the marriage by reason of the fact that the spouses have lived separate and apart since the 4th day of March, 2004 and are now living separate and apart.

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RECONCILIATION

3(a) There is no possibility of reconciliation of the spouses.

~~(b) (Where applicable) The following efforts to reconcile have been made:~~

PARTICULARS OF MARRIAGE

(Attach a marriage certificate or explain its absence.)

4 (a) The petitioners were married on the 14th day of February, 1996

at Fredericton, N.B.
(place of marriage)

(b) The wife's surname before marriage was Albert

(c) The husband's surname before marriage was Cook

(d) The marital status of each spouse at the time of the marriage was, wife Single,

husband Single.

(e) The wife was born on the 12th day of June, 1970.

(f) The husband was born on the 9th day of July, 1970.

RESIDENCE AND JURISDICTION

5 (a) The wife resides at Fredericton, in the Province of New Brunswick

(b) The husband resides at Fredericton, in the Province of New Brunswick

(c) ~~The (wife or husband or~~ Both) ~~has~~/have been ordinarily resident in the Province of New Brunswick for at least one year immediately preceding the date of the commencement of this proceeding.

CAPACITY

6 Both petitioners are of the full age of 19 years and neither of them suffers from any legal disability.

CHILDREN 9

7 (a) The following are all the living children as defined by the *Divorce Act*.

Full name	Birth date	School and grade or year	Person(s) with whom child lives and length of time child has lived there
There are no children of the marriage.			

The children ordinarily reside in *(municipality and province, state or country)* Fredericton, N.B.

(b) The petitioners seek an order on consent for custody or joint custody of the following children on the following terms: *(Be sure that this claim agrees with the claim under clause 1(b).)*

Name of child	**Terms of the order**

(c) The petitioners are not seeking an order for custody and

[ ] are content that a previous court order for custody continue in force, or

[ ] are attempting to obtain an order for custody in another proceeding, full particulars of which are as follows: *(Give name of court, court file number and particulars of the order or proceedings.)*

(d) The petitioners seek an order on consent for access (a visiting arrangement) with the following children on the following terms: *(Be sure that this paragraph agrees with the claim under clause 1(b).)*

Name of Child	**Terms of the order**

(e) The following is the existing access (visiting arrangement) for the spouse who does not have the children living with him or her. *(Give details such as days of the week, hours of visit and place of access.)*

(f) The above access (visiting arrangement) is

[ ] satisfactory

[ ] not satisfactory

(If not satisfactory, give reasons and describe how access should be changed.)

(g) The order sought in clause (b) or (d) is in the best interests of the children for the following reasons:

(h) The following changes in the circumstances of the petitioners are expected to affect the children, their custody and the access (visiting arrangement) in the future:

(i) The existing arrangements between the petitioners for support for the children are as follows:

Amount to be paid	**Time period (weekly, monthly, etc)**	**To be paid by (husband or wife)**	**To be paid for (name of child)**

(j) The existing support arrangements

[ ] are being honoured
[ ] are not being honoured

(If not being honoured, specify how much is unpaid and for how long. If you are agreed on an order for payment of part or all of the unpaid amount, be sure to include it in the claim under clause 1(b).)

(k) The petitioners propose that the support arrangements for the children should be as follows: *(Be sure that this claim agrees with the claim under clause 1(b).)*

Amount to be paid	Time period (weekly, monthly, etc)	To be paid by (husband or wife)	To be paid for (name of child)

(k.1) The nature and amount of any special expenses are as follows:

Nature of special expense	Amount to be paid	Time period (weekly, monthly, etc.)	To be paid by (husband or wife)	To be paid for (name of child)

(l) The educational needs of the children

[ ] are being met
[ ] are not being met.

(If not being met, give particulars.)

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OTHER COURT PROCEEDINGS

8 The following are all other court proceedings with reference to the marriage or any child of the marriage: *(Give the name of the court, the court file number, the kind of order the court was asked to make and what order, if any, the court made. If the proceeding is not yet completed, give its current status.)*

There are no other proceedings with respect to the marriage.

DOMESTIC CONTRACTS, SEPARATION AGREEMENTS, MINUTES OF SETTLEMENT OR OTHER FINANCIAL ARRANGEMENTS 11

9 The spouses have entered into the following domestic contracts, separation agreements, minutes of settlement or other written or oral financial arrangements: *(Give particulars and attach copies. State whether the arrangements are now in effect. If support payments have not been paid in full, state the amount that has not been paid.)*

Date	Nature of arrangements
February 14 1996	Domestic contract concerning marital property. All marital property has been divided pursuant to the contract.

NO COLLUSION

10 There has been no collusion in relation to this divorce proceeding.

DECLARATION OF PETITIONERS 12

11 The petitioners propose that this proceeding be tried at Fredericton, NB

12 (a) I have read and understand this Joint Petition for Divorce. The statements in it are true, to the best of my knowledge, information and belief.

(b) I understand that I have the right to seek independent legal advice concerning this proceeding and to retain my own separate counsel.

(c) I am aware that no application for a division of property under the *Marital Property Act* shall be made later than 60 days after a divorce takes effect except under the circumstances set out in subsection 3(4) of the *Marital Property Act*.

Date _____ Roger Cook
(signature of petitioner)

Address *(if no solicitor retained)*
Roger Cook
123 Streetname
Fredericton, NB E3E 3E3

Date _____ Claire Cook
signature of petitioner

Address *(if no solicitor retained)*
Claire Cook
456 Avenue name
Fredericton, NB E3E 3E3

STATEMENT OF WIFE'S SOLICITOR

(Strike out this paragraph if wife has not retained a solicitor)

13 I, _____ (*name*), solicitor for the wife, certify to this Court that I have complied with the requirements of section 9 of the *Divorce Act*.

(Where in the circumstances it would clearly not be appropriate to discuss the matters in subsection 9(1) with the wife, set out the circumstances.)

I also certify that I have advised the husband that he had the right to seek independent legal advice and retain separate counsel in the proceeding.

Date _____ _____

signature of solicitor

Address and telephone number :

STATEMENT OF HUSBAND'S SOLICITOR

(Strike out this paragraph if husband has not retained a solicitor)

14 I, _____ (*name*), solicitor for the husband, certify to this Court that I have complied with the requirements of section 9 of the *Divorce Act*.

(Where in the circumstances it would clearly not be appropriate to discuss the matters in subsection 9(1) with the husband, set out the circumstances.)

I also certify that I have advised the wife that she had the right to seek independent legal advice and retain separate counsel in the proceeding.

Date _____ _____

signature of solicitor

Address and telephone number :

(Give the name, business address and telephone number of solicitor(s). Give the name, address and telephone number of a petitioner who has not retained a solicitor.)

End Notes – Joint Petition for Divorce (Form 72B)

1. When you file your petition, the Registrar will assign a file number. You need to put this number on all your court documents.

2. See Appendix 5 to choose the judicial district for your county.

3. Give your full names as they appear on the marriage certificate. You and your spouse are the petitioners.

4. Leave this blank. When the Registrar receives the Petition for Divorce, the Registrar will add the full date.

5. CLAIM – Make your claim very clear. With a joint petition, you can ask only for a divorce and for relief to be granted by an order on consent. If you would like to have provisions of a separation agreement included, refer specifically to the provisions. Attach a copy of the separation agreement to the Petition for Divorce.

6. RECONCILIATION – If you and your spouse did not try to reconcile, strike out paragraph (b). If you did try to reconcile, write out what efforts you made.

7. PARTICULARS OF MARRIAGE – Attach the certified copy of your marriage certificate. Make sure that the information in the Petition for Divorce is the same as the information on the marriage certificate.

8. RESIDENCE AND JURISDICTION – Residence means the place where you are now living. Under the *Divorce Act* you must live in a province for at least one year before the decision of the court.

9. CHILDREN – Check whether the support arrangements proposed in paragraph 7(k) agree with the guidelines.

10. OTHER COURT PROCEEDINGS – Give the details if you, or your spouse, have started other court proceedings concerning the marriage or the children of the marriage.

11. SEPARATION AGREEMENTS – Give details about any agreements and attach a copy.

12. DECLARATION OF PETITIONERS – Include your full address. It must be a street address.

DO NOT FORGET BOTH MUST SIGN AND DATE THIS FORM ON THE LAST PAGE, AND INCLUDE YOUR ADDRESSES IN THE SPACE PROVIDED.

Example 2: Cover Letter for Documents

2 Poplar Street
Moncton, NB
E1C 1A1

January 15, 2005

Registrar Court of Queen's Bench
P.O. Box 6000
Fredericton, NB
E3B 5H1
(or if hand delivered - Justice Building, 427 Queen Street, Room 202)

Dear Sir or Madam:

You will find enclosed the original and one copy of my Petition for Divorce. I have attached [list the attached documents] and cheques [or money orders] covering the filing fee and the cost of the Clearance Certificate.

Please return the documents to me at the above address.

Yours truly,

Marie Smith

Marie Smith

Enclosures

Example 3: Personal Service

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

AFFIDAVIT OF SERVICE [1]
(FORM 18B)

I, **Jane Jones**, of the city of **Moncton**, in the County of **Westmorland**, in the Province of New Brunswick, **teacher**, MAKE OATH AND SAY AS FOLLOWS:

1. On the ____ day of _____, **20**____, I served the respondent with a copy of the attached Petition for Divorce (Form 72A), which I marked "A", and the attached documents, by leaving a copy with **him** at **57 Lilac Street, Moncton**, New Brunswick.[2]

2. I was able to identify the person served by means of the fact that **[I know him/her personally or the respondent admitted to being Robert Smith, spouse of Marie Smith. The respondent showed me his New Brunswick Driver's license in the name of Robert Smith, number 777777, bearing the respondent's signature, which is the same as the signature on the back of the original Petition for Divorce.]** [3]

SWORN TO BEFORE ME at
_____, in the County of **Westmorland**,
in the Province of New Brunswick,
this _____ day of _____, 20_____.

Jane Jones

_____ _____

A Commissioner of Oaths [4] **Jane Jones**
Being a solicitor
or
My appointment expires
(Month... Day...Year)

---

[1] If you filed a Joint Petition, do not create this form.
[2] Attach a copy of the petition and the documents. Mark the copy of the petition "A". The Commissioner of Oaths should initial beside the "A'.
[3] The server must fill in the method of identification that he or she used.
[4] Print the name of the Commissioner of Oaths under the line

Example 4: Service by Registered Mail

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

AFFIDAVIT OF SERVICE [5]
(FORM 18B)

I, **Jane Jones**, of the city of **Moncton**, in the County of **Westmorland**, in the Province of New Brunswick, **teacher**, MAKE OATH AND SAY AS FOLLOWS:

1. On the ___ day of _____, **20**____, I served the respondent with a copy of the attached Petition for Divorce (Form 72A), which I marked "A", and the attached documents, by sending a copy of the document **[together with the Acknowledgement of Receipt Card]** [6] by registered mail addressed to the respondent at **57 Lilac Street, Moncton**, New Brunswick, **his** last known address.

2. On the ___ **day of** _____, 20___, **[the attached Acknowledgement of Receipt Card *or* post office receipt]** marked "B" bearing a signature which appears to be the signature of the respondent was returned to and received by me.[7]

SWORN TO BEFORE ME at
_____,
in the County of **Westmorland**,
in the Province of New Brunswick, this
_____ day of _____, 20____.

Jane Jones

_____ _____

A Commissioner of Oaths [8]
Being a solicitor
or
My appointment expires
(Month.... Day.... Year)

Jane Jones

---

[5] If you filed a Joint Petition, do not create this form.
[6] If you use an Acknowledgement of Receipt Card, you must add what is written in brackets.
[7] Attach a copy of the Petition for Divorce and mark it "A". Also attach the respondent's Acknowledgement of Receipt Card or post office receipt and mark it "B". The Commissioner of Oaths will initial beside the "A" and "B" on the attached documents.
[8] Print the name of the Commissioner of Oaths under the line.

Example 5: Acknowledgement of Receipt Card (Form 18A)

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

ACKNOWLEDGEMENT OF RECEIPT CARD [9]
(FORM 18A)

TO: **Robert Smith**

You are served by mail with the documents enclosed with this card pursuant to the Rules of Court.

You **MUST** complete and sign the acknowledgement below and mail this card within 3 days of the date you receive it or you may have to pay the costs to the Sheriff or some other person serving you personally.

Acknowledgement of Receipt

I hereby acknowledge that on the ____ day of _____, 20____, I received the following documents:

a) **copy of the Petition for Divorce together with attached documents.**

b) **Financial Statement (if applicable).**

_____
Robert Smith

[9] Write your full address on the reverse side of the Acknowledgement of Receipt Card before mailing it. Include it in the envelope with the Petition.

Example 6: Cover Letter for the Trial Record

2 Poplar Street
Moncton, NB
E1C 1A1

_____, 20__

Clerk of the Court
The Court of Queen's Bench
Family Division
Judicial District of **Moncton**

Re: **Marie Smith and Robert Smith**
Court File Number **1301-0000**

Please find enclosed the Trial Record in the above-mentioned case, sent to you for the purpose of **assessment of the Request for Divorce**.[10]

Yours truly,

Marie Smith

Marie Smith

Enclosures

[10] If you are proceeding by court hearing, replace bold text by: **setting down for trial.**

Example 7: Cover Page for the Trial Record

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN [11]:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

TRIAL RECORD

Marie Smith, Petitioner
2 Poplar Street
Moncton, NB
E1C 1A1
Telephone: **888-0000**

Robert Smith, Respondent
57 Lilac Street
Moncton, NB
E1C 3B3
Telephone: **888-5555**

[11] If you filed a Joint Petition for Divorce, both parties are petitioners. Wherever 'Respondent' is used in an example, change it to 'Petitioner'.

Example 8: Index for the Trial Record

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN [12]:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

INDEX

(for affidavit evidence)

1. **Original Petition for Divorce of Marie Smith**
2. **Affidavit of Service of the Petition of Divorce on the Respondent**
3. **Clearance Certificate from the Central Registry of Divorce Proceedings**
4. **Affidavit(s) of Evidence of the Petitioner(s)**
5. **Certificate of Readiness**[13]
6. **Request for Divorce**

Or [14]

(for hearing)

1. **Petition for Divorce of Marie Smith, with attached documents**
2. **Affidavit of Service of Petition of Divorce on the Respondent**
3. **Answer received from Respondent**
4. **Clearance Certificate from the Central Registry of Divorce Proceedings**
5. **Certificate of Readiness** [15]

---

[12] If you filed a Joint Petition for Divorce, both parties are petitioners. Wherever 'Respondent' is used in an example, change it to 'Petitioner'. Also, delete the Affidavit of Service.
[13] See Example 9.
[14] Use only one list. It must show all the documents.
[15] See Example 10.

Example 9: Certificate of Readiness (affidavit evidence)

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN [16]:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

CERTIFICATE OF READINESS *(for affidavit evidence)*
(FORM 47B)

I, **Marie Smith**, petitioner, certify that the pleadings are closed and that I am now ready to proceed to trial.[17]

Having consulted with the respondent, I inform the court that:

a) we agree that all pre-trial procedures have been completed;
b) if leave is given to proceed by way of Affidavit, no Court time is required.

DATED in **Moncton**, New Brunswick, this _____ day of _____, 20____.

Marie Smith

_____

Marie Smith, Petitioner

---

[16] If you filed a Joint Petition for Divorce, both parties are petitioners. Wherever 'Respondent' is used in an example, change it to 'Petitioner'.

[17] If you filed a Joint Petition for Divorce, state:
"We, _____ and _____, petitioners, certify that the pleadings are closed and that we are now ready to proceed to trial. We inform the court that: …"

Example 10: Certificate of Readiness (court hearing)

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN [18]:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

CERTIFICATE OF READINESS *(for hearing)*
(FORM 47B)

I, **Marie Smith**, petitioner, certify that the pleadings are closed and that I am now ready to proceed to trial.[19]

Having consulted with the respondent, I inform the court that:

c) we agree that all pre-trial procedures have been completed;
d) we estimate the hearing of the petition will take 15 minutes;
e) the parties intend to use the English language;
f) the services of an interpreter will not be required.

DATED in **Moncton**, New Brunswick, this _____ day of _____, 20____.

Marie Smith

_____

Marie Smith, Petitioner

[18] If you filed a Joint Petition for Divorce, both parties are petitioners. Wherever 'Respondent' is used in an example, change it to 'Petitioner'.

[19] If you filed a Joint Petition for Divorce, state:
"We, _____ and _____, petitioners, certify that the pleadings are closed and that we are now ready to proceed to trial. We inform the court that: ..."

Example 11: Request for Divorce

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN [20]:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

REQUEST FOR DIVORCE
(FORM 72K)

TO THE ADMINISTRATOR OF THE COURT:

1. I request that this proceeding be considered under rule 72.18 on the basis of affidavit evidence.

2. Service of the Petition for Divorce on the respondent was effected by **Jane Jones, teacher**, on the _____ day of _____, 20____.[21]

3. The respondent has not filed an answer.

4. The respondent's [22] address is **57 Lilac Street, Moncton**, New Brunswick, **E1C 3B3**.

5. The affidavit evidence to be considered with my Petition for Divorce [23] is attached.

6. The petitioner's address is **2 Poplar Street, Moncton, New Brunswick, E1C 1A1**.

DATED at **Moncton**, New Brunswick, this _____ day of _____, 20____.

Marie Smith

_____

Marie Smith, Petitioner

---

[20] If you filed a Joint Petition for Divorce, both parties are petitioners. Wherever 'Respondent' is used in an example, change it to 'Petitioner'.
[21] If you filed a Joint Petition for Divorce, delete #'s 2 and 3.
[22] If you filed a Joint Petition for Divorce, change the word "respondent's" to "joint petitioner's".
[23] If you filed a Joint Petition for Divorce, state that "our Joint Petition for Divorce" is attached.

Example 12.1: Affidavit - Supporting Petition by One Spouse

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

AFFIDAVIT

I, **Marie Smith**, of the city of **Moncton** in the County of **Westmorland** and Province of New Brunswick, **waitress**, MAKE OATH AND SAY AS FOLLOWS:

1. I am the petitioner named in the Petition for Divorce dated the **___ day of _____, 20___.**

2. I have been ordinarily resident in New Brunswick for at least one year immediately before the date on which the Petition of Divorce was filed.

3. The Respondent **Robert Smith** is an **electrician** and resides at **57 Lilac Street** in the city of **Moncton** in the County of **Westmorland** and Province of New Brunswick. This address is known to me **because I contacted the Respondent at this address to discuss matters relating to the children.**

4. There is no possibility of reconciliation of the spouses. **The Respondent and I made an attempt at reconciliation by attending marriage-counselling sessions with _____ of _____ in _____, 20___. The attempt at reconciliation was not successful.**

5. I confirm that all the information in the Petition for Divorce is correct.

6. A certificate of marriage is attached to the Petition for Divorce.

7. The Respondent and I separated on the **___day of _____, 20__** and have remained separate and apart since that day. This separation has resulted in a permanent breakdown of the marriage. On the date of separation and continuously since then it has been the Respondent's and my intention to remain separate and apart.

8. I am not directly or indirectly a party to any agreement or conspiracy for the purpose of subverting the administration of justice, including any agreement, understanding or arrangement to make up or hide evidence or to deceive the court.

9. **I do not claim spousal support.**

10. There are **two children** of the marriage: **Anne Smith, born on the _____ day of _____, _____, and Michel Smith, born on the _____day of _____, _____.**

11. **The Respondent and I made a separation agreement dated the _____ day of _____, 20____, a copy of which is attached to the Petition for Divorce as Exhibit "A". I ask the court to include in the Divorce Judgment the following provisions of the agreement:**[24]

12. I claim child support in the amount of **$_____** per month for the **two children** of the marriage under the child support guidelines based on the income of the respondent as set out in the Respondent's Financial Statement and income information. I have no knowledge of any change in circumstances since the Financial Statement and information were filed.

13. **I do not wish to claim a division of property at this time. I am aware that no application for a division of property under the *Marital Property Act* can be made more than 60 days after the divorce takes effect except in the circumstances in subsection 3(4) if the *Marital Property Act*.**

14. **I do not claim costs.**

SWORN before me at
_____,
in the County of **Westmorland**,
in the Province of New Brunswick, this
_____ day of _____, 20____.

Marie Smith

_____

Marie Smith

_____

A Commissioner of Oaths [25]
Being a solicitor
or
My appointment expires
(Month.... Day.... Year)

[24] Attach the agreement and mark it "A'. Give the number of the sections that you want to include in the divorce judgment and copy out the exact words from the agreement.
[25] Print the name of the Commissioner of Oaths under the line.

Example 12.2: Affidavit - Supporting Joint Petition

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN:

Roger Cook -and- **Claire Cook**

PETITIONERS

AFFIDAVIT

WE, **Roger Cook** of the city of **Fredericton** in the County of **York** and Province of New Brunswick, **plumber**, and **Claire Cook**, of the city of **Fredericton** in the County of **York** and Province of New Brunswick, **caterer**, MAKE OATH AND SAY AS FOLLOWS:

1. We are the petitioners named in the Petition for Divorce dated the _____ day of _____, 20___.

1. Both petitioners have been ordinarily resident in New Brunswick for at least one year immediately before the date on which the Petition for Divorce was filed. [26]

2. There is no possibility of reconciliation of the petitioners. The petitioners have been living separate and apart since the _____day of _____, 20___. There has been little contact between the petitioners since the date of separation.

3. The petitioners confirm that all the information in the Petition for Divorce is correct.

4. A certificate of marriage is attached to the Petition for Divorce.

5. The petitioners separated on the _____day of_____, 20__ and have remained separate and apart since that day. This has resulted in a permanent breakdown of the marriage. On the date of separation and continuously since then it has been the intention of the petitioners to remain separate and apart.

6. **There are no children of the marriage**.

7. Neither petitioner is directly or indirectly a party to any agreement or conspiracy for the purpose of subverting the administration of justice, including any agreement, understanding or arrangement to make up or hide evidence or to deceive the court.

---

[26] If you live in different cities, state which one of you is living in the judicial district that you are applying in.

8. **The petitioners do not wish to claim a division of property at this time. Both petitioners are aware that no application for a division of property under the *Marital Property Act* can be made more than 60 days after the divorce takes effect except in the circumstances in subsection 3(4) of the *Marital Property Act*.**

SWORN before me at
_____,
in the County of **Westmorland**,
in the Province of New Brunswick, this
_____ day of _____, 20____.

_____

A Commissioner of Oaths [27]
Being a solicitor
or
My appointment expires
(Month....Day....Year)

Roger Cook
_____
Roger Cook

Clair Cook
_____
Clair Cook

[27] Print the name of the Commissioner of Oaths under the line.

Example 13: Letter to Request a Certificate of Divorce

2 Poplar Street
Moncton, NB
E1C 1A1
_____, 20____

Deputy Registrar
Court of Queen's Bench
P.O. Box 6000
Fredericton NB
E3B 5H1
(or if hand-delivered – Justice Building, 427 Queen Street, Room 202)

Re: **Marie Smith** and **Robert Smith**
Court File Number **1301-0000**

Dear Sir or Madam:

You will find enclosed a certified cheque [or money order] in the amount of $7 to cover the fee for a Certificate of Divorce in the divorce proceedings of **Marie Smith** and **Robert Smith**, court file number **1301-0000**.

Please send the Certificate of Divorce to me at the above address.

Yours truly,

Marie Smith

Marie Smith

Enclosures

Example 14: Notice of Discontinuance (Form 25A)

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN [28]:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

NOTICE OF DISCONTINUANCE
(FORM 25A)

The petitioner wholly discontinues this action.

DATED at ....., this ..... day of ..... 20...

Marie Smith

Marie Smith
2 Poplar Street
Moncton, NB E1C 3B3

[28] If you filed a Joint Petition for Divorce, both parties are petitioners. Wherever 'Respondent' is used in an example, change it to 'Petitioner'.

Example 15: Agreement Not to Appeal (Form 72L)

Court File Number **1301-0000**

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF **MONCTON**

BETWEEN[29]:

Marie Smith

PETITIONER

-and-

Robert Smith

RESPONDENT

AGREEMENT NOT TO APPEAL
(FORM 72L)

We hereby agree and undertake that no appeal will be taken from the judgment granting a divorce in this proceeding.

DATED at ....., this ..... day of ..... 20.....

Marie Smith

Marie Smith

Robert Smith

Robert Smith

[29] If you filed a Joint Petition for Divorce, both parties are petitioners. Wherever 'Respondent' is used in an example, change it to 'Petitioner'.

5. Appendices

Appendix 1: **Breakdown of the Marriage**

Appendix 2: **Issues Related to Marriage Breakdown**

Appendix 3: **Options for Settling Custody, Support and Division of Marital Property**

Appendix 4: **Getting a Copy of Your Marriage Certificate**

Appendix 5: **Judicial Districts in New Brunswick**

Appendix 6: **After Your Divorce**

Appendix 7: **Other Useful Family Law Publications**

Appendix 1: Breakdown of the Marriage

This guide is intended for people who want a divorce based on the ground that they have lived **separate and apart** for at least one year. Although the only ground for divorce is breakdown of the marriage, there are different ways that you can demonstrate your marriage has broken down. **Read this appendix to find out more about the terminology related to the breakdown of the marriage.**

A **ground for divorce** is a reason for divorce that the law recognizes. Under the ***Divorce Act***, the only ground for divorce is the **breakdown of the marriage**. A marriage has broken down if one of three circumstances has developed.

- The spouses have been living **separate and apart** for at least **one year** immediately before the decision of the court;
- one spouse (the one who is the *respondent* in the divorce petition) has committed **adultery**; or
- one spouse (the one who is the *respondent* in the divorce proceeding) has treated the other spouse (the petitioner) with **physical or mental cruelty** that makes it intolerable for the spouses to stay together.

If any of these circumstances apply, you can ask the court for a divorce. If you use separation as the reason for divorce, it does not matter who is 'at fault'.

"Separate and Apart"

The term **"separate and apart"** means that a couple does not live as husband and wife. Two people can live in the same house and still lead separate lives, and two people can live in different places while still man and wife. To determine whether a couple has been separate and apart consider things like whether they made decisions together and whether they willingly spent time together, like eating their meals together.

Separate and Apart

Living separate for at least one year provides evidence of the breakdown of the marriage. **NOTE:** You can file your divorce petition when you have been separated for *less than one year*, but you cannot file the **Trial Record** until a full year has passed. The **court** will wait until one year is up before giving you a divorce on the **ground of separation**.

What does separation mean in legal terms?

Separation happens when one spouse leaves the marriage relationship with the intention of ending the marriage relationship. In legal terms, separation means withdrawing from the marital "consortium". **Consortium** includes love, sexual relations, affection, companionship, and cooperation. Consortium means the marriage relationship as a whole, which can survive without all of its parts. Consortium continues if the spouses are temporarily separated without intending to end the relationship. It is possible for consortium to continue after sexual relations stop. The court will not grant a divorce if consortium continues.

It is possible for spouses to live in the same house or apartment and yet live separately if each person leads an independent life. In some cases, courts determined that couples lived separate and apart even though the couple lived under the same roof. In these cases, the spouses had separate bedrooms and there were no sexual relations. There was little communication between them, they did not perform services for each other, and they did not eat or socialize together.

Do we both have to agree to the separation?

Both spouses do not have to agree to the separation. When one spouse leaves, either spouse may request a divorce in a petition to the court. Both spouses can request a divorce together in a joint petition, if they wish. It does not matter for the divorce proceedings why the spouse left.

What if we try to reconcile for a while?

You can still get a divorce if you try to reconcile. After the separation, spouses can live together again ("cohabit") on one or more occasions, as long as the occasions do not total more than 90 days. If you lived apart for a few months and then lived together for more than 90 days, you would interrupt the one-year separation. To qualify under the one-year separation ground, you would have to start counting from the day of the new separation.

There is an exception to the rule against interrupting the one-year separation for longer than 90 days. The court can decide that the separation was not interrupted if one spouse becomes incapable of having an intention to live separately, for example, because of temporary mental incompetence or commitment to a psychiatric institution.

How do I prove the separation period?

To prove that your marriage broke down because of a one-year separation, you must give the exact dates involved. You must also explain whether you made any attempts at reconciliation, such as living together or going to a marriage counsellor. If you have a **separation agreement**, this legal document provides evidence of a serious intention to end the relationship.

What is a separation agreement?

A separation agreement is a mutual understanding between spouses in the process of divorce or legal separation. It is usually a written agreement that is signed by both spouses after they have received independent legal advice. It includes the spouses' arrangement concerning matters such as spousal support, division of property, custody and child support. A separation agreement can be filed with the court for the purpose of enforcement of support. The court can consider the separation agreement when deciding the terms of the divorce, but the court does not have to use it. **(See Appendix 2 for further discussion of separation agreements.)**

Adultery

Adultery is another reason that evidences a breakdown of the marriage.

If I use adultery as the basis for the basis for the breakdown of the marriage, do I have to wait?

In this case, you do not have to wait a full year. You can make the request at any time. The spouse who committed adultery cannot request a divorce based on the adultery.

How do I prove adultery?

There are two ways to prove adultery: by **admission** or by **circumstances**. For an admission, the spouse voluntarily and freely admits that he or she committed adultery. To prove adultery based on the circumstances, you must prove circumstances such as sharing a bedroom with another person, demonstrating affection for this person in public, taking trips with this person, and/or visiting this person day and night, etc.

> To use adultery as the reason for the breakdown of the marriage, **you should hire a lawyer**.

Mental or Physical Cruelty

The third ground for breakdown of the marriage is mental and/or physical cruelty that makes it intolerable for the spouses to continue the marriage relationship.

What does cruelty mean in legal terms?

Cruelty means inflicting pain on, or being indifferent to the pain inflicted on, the other person. Whether the court will consider a spouse's behaviour cruel under the *Divorce Act* depends on the individual circumstances. Occasional sulking or bickering is not considered cruel. The court will look at the type and severity of the abuse, the pattern of abuse, the effect on your mental or physical health and your forgiveness or rejection of the abusive spouse. In some cases courts have granted a divorce because of one violent assault, but the court may require a pattern of assaults.

What can I do if my spouse was cruel?

If you want to do your own divorce, you have the choice of waiting until you have been separated for one year and using separation as your ground for the divorce. If you want a divorce immediately because of cruelty, **see a lawyer**.

If you cannot afford to hire a lawyer, you may be eligible for Domestic Legal Aid. Call the Court of Queen's Bench, Family Division in your area:

Bathurst	(506) 547 - 2150
Campbellton	(506) 789 - 2364
Edmundston	(506) 735 - 2029
Fredericton	(506) 453 - 2015
Miramichi	(506) 627 - 4023
Moncton	(506) 856 - 2305
Saint John	(506) 658 - 2400
Woodstock	(506) 325 - 4414

For more information on assistance in settling family law matters and the services provided through the domestic legal aid program, read the PLEIS-NB pamphlet "***Domestic Legal Aid***."

Postponing or Refusing a Divorce

If the spouses do not demonstrate that they have made reasonable arrangements for the support of the children, the court must postpone the divorce until the spouses do so. For guidance on what is reasonable, the Government of Canada has established the Federal Child Support Guidelines. See the Regulations of the *Divorce Act* for the tables. The amounts of child support payable according to the Guidelines are based on the annual income of the spouse who does not have custody of the child(ren) and the province where he/she lives. There is information on child support in **Appendix 2**.

The court will also make sure that there has not been any **collusion**, **connivance** or **condonation of misconduct** by the spouses. If the court discovers collusion, the court must refuse a divorce. In cases of connivance or condonation, the court must refuse a divorce unless the court considers the divorce to be in the public interest.

Actions that will stop the divorce petition: The Three C's

- **Collusion** happens when the spouses agree or conspire to stop the administration of justice, or arrange to make up or hide evidence or to deceive the court. For example, there is collusion if the spouses agree to shorten the one-year separation period by using false dates.
- **Connivance** happens when one spouse implies approval for the other spouse to commit adultery or cruelty or is not concerned that the other spouse has committed adultery or cruelty. The approving, or unconcerned, spouse cannot later use that act of adultery or cruelty as a ground for divorce.
- **Condonation** happens when a spouse commits adultery or cruelty and the other spouse knows but voluntarily forgives or ignores the act and continues the marriage relationship. Under these circumstances, the spouses cannot use that particular act of adultery or cruelty as the reason for the breakdown of the marriage.

Appendix 2: Issues Related to Marriage Breakdown

This Guide is intended for people who have settled all their family law issues. Read this appendix for more information about the various family law matters related to marriage breakdown. These include the division of marital property under the ***Marital Property Act*** and **corollary relief** under the ***Divorce Act***. Corollary relief includes custody, access and support. PLEIS-NB has more information on these issues. Be sure to read Appendix 3 to find out about the various options for resolving your family law matters.

Custody and Access

Custody means having the care and control of a child. During a marriage, children are in the custody of both parents unless there is a court order or written agreement otherwise. When a marriage breaks down, the parents need to decide on arrangements for the care of the children. The parents may agree in a separation agreement or a consent order that the custody, care and physical control of the children will be the responsibility of the mother or father, or be shared by both parents. A non-custodial parent would generally have reasonable access to the children. If parents cannot agree, they can leave the decision to the court.

> You can get more information about the various forms of custody and access in the free PLEIS-NB pamphlet ***Custody and Access in New Brunswick***
>
> ***www.legal-info-legale.nb.ca***

The court must consider only the *best interests of the child*. The court will not consider past conduct, including abuse, unless the conduct is relevant to the person's ability to act as a parent. The court must give a child as much contact as possible with both parents if the contact is in the child's best interests. The court must consider whether a parent who wants custody is willing to encourage contact.

When can I apply for a custody order?

There is no waiting period to apply for custody. A court can grant a custody order at any time after a spouse leaves. If there is a custody order in effect when you do your divorce, you should ask the court to include the same order in the divorce judgment. If circumstances have changed and you wish to ask the court to change the custody order, you must do so in the Petition for Divorce.

> Although divorce is a breakdown of the relationship between two spouses, it does not end their relationship with their children. Parent's responsibilities to their children continue. In a divorce, the court tries to protect the children. In law, the "***best interests***" and the rights of the children always come first.

Types Of Support

Spousal Support

> For more information on child or spousal support, get the free PLEIS-NB pamphlets in the series ***Child and Spousal Support***.

Spouses are not automatically entitled to spousal support. A court may order one spouse to pay support for the other spouse if the court thinks it is reasonable. The court may order payment of support periodically, in a lump sum, or both. The support may be temporary or permanent.

If you have a written agreement with your spouse including spousal support, you can do your own divorce and ask for the agreed spousal support in your divorce petition. If you do not agree with your spouse about spousal support, hire a lawyer or find out if you qualify for legal aid.

The court may issue an **interim order** requiring one spouse to support the other while the court considers the divorce. If you need interim support, talk to the Family Division court social worker or your own lawyer for help on how to apply.

When the court considers a request for spousal support, the court looks at how long the spouses cohabited and who performed what functions. In particular, the court evaluates the needs of each spouse, as well as each spouse's ability to pay. The court will consider any order or agreement concerning support. The court will not consider spousal misconduct.

Under the *Divorce Act*, any spousal support order should recognize the economic effects of the marriage or marriage breakdown, divide the financial effects of childcare, relieve economic hardship resulting from the marriage breakdown, and promote economic self-sufficiency as far as practical and as soon as practical. The court is more likely to order spousal support for a spouse who is unable to work or can only earn a low wage. The court will expect the spouse to find work or better-paid work if possible.

There are cases where the court orders permanent support for a spouse. There are also cases where the court refuses to order any spousal support. Under the ***Divorce Act***, the court must give priority to child support above spousal support. The children's needs come first.

Child Support

> You can get a package explaining the *Guidelines* from PLEIS-NB. Call 1-888-236-2444 or check online at www.legal-info-legale.nb.ca

Both parents have an obligation to support their children financially, according to each parent's income. When parents separate, the parent with custody usually receives child support payments from the other parent for the children's financial needs. Since May 1, 1997, the Federal Child Support Guidelines set the amount of child support payments under the ***Divorce Act***.

The amount of support is based on the paying parent's annual income and the number of children entitled to support. As a rule, you can tell what amount a court will order based on the child support Guidelines. You can look up the basic amount of support in the table for the province where the paying spouse lives. To the basic amount, add the paying spouse's share of special expenses such as day care and extra-curricular activities.

The spouses can agree on the amount of child support from the table plus each spouse's share of special expenses. Special expenses may include costs for daycare, extracurricular activities, medical expenses, schooling, etc. They can also agree on some other amount. If the court finds that the agreed amount is reasonable, the court can order that amount. If the spouses cannot agree, the court will decide the amount of child support, by applying the Guidelines.

The support will continue until the child's 19th birthday. However, you can agree to extend this period. Some parents choose to have the support continue until the children finish their post-secondary education, or reach their 21st or 25th birthday, etc.

The court may issue an **interim order** requiring one spouse to pay child support while the court considers the divorce. If you need interim child support, talk to the Family Division Court Services or your own lawyer.

If you are concerned that your spouse will refuse to pay for child support or applying for child support will upset your current situation, understand that a divorce **will not** be processed if the children are not adequately provided for. It is the law to provide financially for your children. If you do not request this from your spouse, or if your spouse refuses, you will have to contact a lawyer.

Division of Marital Property

> For more information on marital property, get the PLEIS-NB pamphlet on ***The Marital Property Act of New Brunswick***.

What does marital property include?

The most common types of marital property are the marital home, household goods, money, personal investments, automobiles and recreational vehicles. When spouses separate or divorce, each spouse is entitled to an equal share of the marital property, except in certain special circumstances. According to the ***Pension Benefits Act***, spouses may also apply for a division of certain provincial pensions.

When do I apply for the division of marital property?

You can apply for a division of your marital property after your marriage breaks down without any possibility of reconciliation. **If you wait until you get the divorce, you only have 60 days to apply for a division of marital property from the date that your divorce takes effect.** In exceptional situations where you did not know about the divorce or there were circumstances beyond your control, you can ask the court to give you more time to apply.

Separation Agreements

If you and your spouse agree on custody, access, support and marital property matters, you can set this out in a separation agreement. A separation agreement is a contract between a separating or separated couple that specifies their rights and obligations to each other and the children of the marriage. To make sure the agreement will be valid, the spouses should consult separate lawyers.

What does a separation agreement cover?

The contents of the separation agreement will depend on the situation of the people involved. Often a separation agreement will contain the following provisions:

- **Child Custody and Access Rights**

- **Child Support**
  You can follow the child support Guidelines or agree on a different amount. It is important to include the exact amount, payment date and duration. For example, support might end when the children reach the age of 19 or complete their post-secondary education.

  Before granting a divorce, the court must make sure that you have made reasonable child support arrangements. The court will decide whether your arrangements are reasonable by looking at the Federal Child Support Guidelines. If your arrangements are not reasonable, the court will postpone the divorce. **The court may change the amount of child support set out in**

the separation agreement. The court will consider your arrangements, but does not have to apply them. You can get a copy of the Child Support Guidelines from PLEIS-NB or read about them on line.

- **Spousal Support**
  The agreement should set out the amount of spousal support, if any, along with the dates that the first and future payments are due and how long the payments will last.

- **The Marital Home**
  For example, the spouses can agree that
  - the spouses will sell the marital home and share the proceeds of the sale;
  - one spouse will buy out the other spouse; or
  - one spouse will remain in the home with the children until they leave. In this case the spouses must agree who will pay the mortgage and any repairs.

  The spouses can also make other suitable arrangements.

- **Debts**
  The agreement should set out who is responsible for paying debts.

  While your separation agreement is being prepared, you can take other steps to end your responsibility on joint credit cards. If it is not possible to get the card back, you can visit your lender to change your account and cancel your responsibility for future debts. You may also see your lender to sign a Statement of Non-Responsibility. This signed statement will end your responsibility for future debts.

- **Division of Other Marital Property**
  Other marital property usually includes household goods, bank accounts, shares in corporations, etc.

- **Duration of the Agreement**
  The agreement should include an expiry date or the circumstances under which the agreement ends.

Do I need a lawyer for a separation agreement?

Yes. You should see your own lawyer about the separation agreement even if you do your own divorce. Your spouse needs to see a different lawyer. The same lawyer should not advise two people with different interests. Seeing your own lawyer is called getting independent legal advice. *If you do not receive independent legal advice, you may not be aware of all of your rights and your agreement may not stand up in court.*

> See your own lawyer before signing a separation agreement. Do not sign the agreement unless you think the agreement is fair to you and the children. If you sign it, you will probably have to live with it.

Your lawyer should make sure you understand how the agreement will affect you. If your lawyer advises you not to sign, that is not just a suggestion. It is a serious warning.

Court Orders

If you and your spouse cannot agree, then either spouse can ask the court to decide issues such as custody, access and support and give a court order. People normally hire a lawyer for this. Divorce is complicated when spouses do not agree. However, if you cannot hire a lawyer or get domestic legal aid, you will have to make your own application. The Family Division court office may have the forms you need to apply to the court.

How Separation Agreements and Orders Relate to Divorce

Any custody, support or property division order or agreement that you get before your divorce may later be part of the court record in the divorce proceeding. The court can include it in the divorce judgment.

If you have a separation agreement or order, be sure to put a copy with the documents that you file in the divorce proceedings. Then you can ask the court to include parts of the agreement in the divorce judgment, such as custody, access, support and division of property. Your divorce petition should say exactly which parts of the separation agreement you wish to include.

Can I use a domestic contract instead of a separation agreement?

If you and your spouse made a domestic contract before or during your marriage, you can use the parts about marital property and support obligations. Unlike a separation agreement, a domestic contract cannot deal with child custody and access. You need to see your own lawyer before signing a domestic contract.

Will the court always accept the separation agreement?

The **court will usually accept** a separation agreement **unless** it discovers that:

- **one spouse was forced to sign** the agreement;
- **one spouse tried to defraud the other** by making false statements or hiding assets;
- the **agreement does not make appropriate provisions for child support**; or
- the **spouses did not consult separate lawyers**.

Other Benefits

Division of Canada Pension Plan Credits

When a relationship ends, spouses can share equally between them the Canada Pension Plan credits that either or both spouses earned while they were living together. A division of pension credits may mean more money to you when you retire or if you become disabled. It may also mean benefits for your children if you die or become disabled. For more information on credit splitting of your CPP credits see the pamphlet entitled, "Credit Splitting upon Divorce or Separation" available from the Government of Canada or at http://www.hrsdc.gc.ca/en/isp/pub/factsheets/creditsplit.pdf.

Who can apply for the division?

Either spouse can apply for the division of unadjusted pensionable earnings of the Canada Pension Plan. It is not necessary for this person to have contributed directly to the plan to be entitled to a division of the unadjusted earnings of his or her spouse. For example a woman who worked in the home taking care of the children and household tasks can apply for a division of unadjusted pensionable earnings.

To apply for a division of unadjusted pensionable earnings

- ✓ the relationship must have ended after January 1, 1987, and
- ✓ you must have lived together for at least 12 consecutive months.

How do I apply?

You can view and print the ***Canada Pension Plan Credit Split Kit*** online at http://www100.hrdc.gc.ca/forms/isp1901e.pdf. You should automatically receive a copy of the form after you file your divorce petition. Send the form to the Canada Pension Plan office nearest you. Both spouses will receive a notice explaining the results of the application. There will also be a statement showing the income credited to each spouse before and after the division of earnings. The spouse making the application can cancel the application up to 30 days after receiving the notice. Both spouses have the right to appeal the results of the application.

Appendix 3: Options for Settling Custody, Support and Division of Marital Property

Before you do your own divorce, you must settle family law issues, which include custody, support and division of marital property, to your satisfaction. It is a good idea to learn more about these issues and your options. To get information on family matters, you can consult the PLEIS-NB pamphlets on these topics. These materials are available from PLEIS-NB and online at www.legal-info-legale.nb.ca. In some places, you may be able to find free legal advice clinics that can offer information about your legal situation.

Once you are ready to settle your family law matters there are a number of ways for you to proceed depending on your situation. These may include:

- Take the parenting after separation course "For the Sake of the Children: to learn about legal issues and the impact of divorce on children. To register call 1-888-236-2444.
- Work things out yourselves and prepare a **separation agreement**.
- Get **legal advice** and finalize your separation agreement.
- If you agree on all matters, you could ask the court for a **consent order**.
- Use a **mediator** to help you resolve your family law issues.
- Use a **collaborative law process** to settle your family law issues.
- If you are a victim of **partner abuse**, you may eligible for the **Domestic Legal Aid Program.** A Family Court Solicitor would handle your family law matters.
- If you cannot agree on the issues**, hire a lawyer** and **apply to the court**. A judge will decide and issue a **court order**.

More information on these options is presented below. Be sure to read Appendix 2 for a review of the various family law terms and issues. And remember, to fully understand your rights and obligations in your circumstances, you should consult a lawyer.

Hire a Lawyer

If you want to talk to a lawyer but don't know any, ask your friends, neighbours, clergy member or anyone else you trust, to suggest a lawyer. Ask friends who have had similar family law issues. It is important to choose the right lawyer for your legal problem. The best references generally are other people who have used that lawyer.

Finding a Lawyer

You can call the Law Society and ask for names of lawyers who practice family law. (506) 458-8540. You can also look in the Yellow Pages of the telephone directory, under "**Lawyers**". Lawyers and law firms in your community are listed in alphabetical order.

Collaborative Law

Another option for settling family law matters is the Collaborative Law Process. If you and your spouse believe that both of you should be involved in negotiating a solution, that you can create a solution together, and can be respectful to one another, then the Collaborative Law Process may work for you. It is a process where you and your spouse each have a collaborative law lawyer and the four of you work as a team, working to understand each other's needs. You cooperate with your spouse to come up with the best solution for both of you and your children. Once you reach an agreement, the collaborative lawyers will help you get approval of the court.

Finding a Collaborative Law Lawyer
You can find lawyers who practice collaborative law by consulting the Canadian Bar Association-New Brunswick Branch's website. Click on collaborative law.
http://www.cba.org/nb/Main/

Mediation

If you need help resolving family law issues, you can try mediation. In mediation, a third person, such as a social worker, helps you negotiate a **separation agreement**. Mediators are trained to help people resolve conflicts and reach agreement. You and your spouse should both take your draft separation agreement and get independent legal advice to ensure that it is in your best interest. If you wish, the agreement can be filed with the court as a consent order. In any case, you can file the agreement for the purpose of support enforcement. Mediation is not appropriate if the relationship was abusive.

Finding a Mediator

- For private mediation services, check the yellow pages under "Mediation".
- Family law mediation services are offered free of charge in Family Division Court offices. For more information on this free service, read PLEIS-NB's pamphlet ***Domestic Legal Aid in New Brunswick***, or go to www.gnb.ca/cour/04CQB/Mediation-e.asp.

Domestic Legal Aid

If you are a victim of partner abuse you can apply for domestic legal aid. If you qualify, a lawyer will be provided to help you apply for custody, access, child and/or spousal support and routine division of marital property. You can get a booklet on ***Domestic Legal Aid*** from PLEIS-NB.

Appendix 4: Getting a Copy of Your Marriage Certificate

New Brunswick Vital Statistics, Department of Health & Wellness P.O. Box 6000 Fredericton, NB E3B 5H1 Phone: (506) 453-2385 Fax: (506) 444-4139	**Alberta** Vital Statistics 10365-97 Street, Box 2023 Edmonton, AB T5J 4W7 Phone: (780) 427-7013 Fax: (780) 422-9117
British Columbia Division of Vital Statistics Ministry of Health Planning P.O. Box 9657, Stn. Prov. Govt Victoria, BC V8W 9P3 Phone: (250) 952-2681 Fax: (250) 952-2527	**Manitoba** Vital Statistics Agency 254 Portage Avenue Winnipeg, MB R3C 0B6 Phone: (204) 945-3701 Fax: (204) 948-3128
Newfoundland Vital Statistics Division Department of Government Services & Lands 5 Mews Place P.O. Box 8700 St. John's NFLD A1B 4J6 Phone: (709) 729-3308 Fax: (709) 729-0946	**Nova Scotia** Service Nova Scotia and Municipal Relations Services P.O. Box 157 Halifax, NS B3J 2M9 Phone: (902) 424-4381 Fax: (902) 424-0678
Northwest Territories Vital Statistics 107 MacKenzie Road Room 205 Bag 9, Govt. of the NWT Inuvik, NWT X0E 0T0 Phone: (867) 777-7422 Fax: (867) 777-3197	**Nunavut** Vital Statistics Bag #3, Health and Social Services Rankin Inlet, Nunavut X0C 0G0 Phone: (867) 645-5002 Fax: (867) 645-2997
Ontario Vital Statistics Office of the Registrar General P.O. Box 4600 189 Red River Road Thunder Bay, ON P7B 6L8 Phone: (416) 325-8305 Fax: (807) 343-7459	**Prince Edward Island** Vital Statistics Department of Health & Social Services P.O. Box 3000 35 Douses Road Montague, PEI C0A 1R0 Phone: (902) 838- 880 Fax: (902) 838-0883

Quebec	Saskatchewan
Le Directeur de létat civil 2535 boulevard Laurier Sainte-Foy, PQ G1V 5C5 Phone: (418) 643-3900 Fax: (418) 646-3255	Vital Statistics Department of Health 1942 Hamilton Street Regina, SASK S4P 3V7 Phone: (306) 787-3092 Fax: (306) 787-2288
Yukon	
Vital Statistics Agency Health and Social Services P.O. Box 2703 Whitehorse, YUKON Y1A 2C6 Phone: (867) 667-5207 Fax: (867) 393-6486	

Appendix 5: Judicial Districts in New Brunswick

Bathurst Court of Queen's Bench, Family Division P.O. Box 5001, 254 St. Patrick Street Bathurst, NB E2A 3Z9 Mediation: 547-2152 Court Office: 547-2150	- **Judicial District of Bathurst includes:** Gloucester County
Campbellton Court of Queen's Bench, Family Division P.O. Box 5001, 157 Water Street Campbellton, NB E3N 3H5 Mediation: 789-2364 Court Office: 789-2364	- **Judicial District of Campbellton** includes: Restigouche County
Edmundston Court of Queen's Bench, Family Division P.O. Box 5001, 121 Rue de l'Église Edmundston, NB E3V 3L3 Mediation: 735-2028 Court Office: 735-2029	- **Judicial District of Edmundston** includes Madawaska County and Drummond and Grand Falls of Victoria County
Fredericton Court of Queen's Bench, Family Division P.O. Box 6000, 427 Queen Street Fredericton, NB E3B 5H1 Mediation: 453-2015 Court Office: 453-2015	- **Judicial District of Fredericton** includes York County, Sunbury County and Queens County
Miramichi Court of Queen's Bench, Family Division 673 King George Highway Miramichi, NB E1V 1N6 Mediation: 627-4024 Court Office: 627-4023	- **Judicial District of Miramichi** includes: Northumberland County
Moncton Court of Queen's Bench, Family Division P.O. Box 5001, 770 Main Street Moncton, NB E1C 8R3 Mediation: 856-2305 Court Office: 856-2304	- **Judicial District of Moncton** includes: Albert County Westmorland County and Kent County
Saint John Court of Queen's Bench, Family Division P.O. Box 5001, 110 Charlotte Street Saint John, NB E2L 4Y9 Mediation: 658-2400 Court Office: 658-2560	- **Judicial District of Saint John includes:** Charlotte County, Saint John County and Kings County
Woodstock Court of Queen's Bench, Family Division P.O. Box 5001, 689 Main Street Woodstock, NB E7M 5C6 Mediation: 325-4300 Court Office: 325-4414	- **Judicial District of Woodstock** includes: Carleton County and Victoria County except the Parish of Drummond and the town of Grand Falls (see Edmundston)

Appendix 6: After Your Divorce

After you have received your **Certificate of Divorce**, you may still need to settle some other issues. These include the **division of marital property** (if you have not done so already), **changing your surname**, and **varying your child support** or **custody orders**.

Marital Property

Remember, if you have applied for a divorce and you have not already settled the division of your marital property, you should do so quickly. You have only have 60 days to apply for a division of marital property from the date that your divorce takes effect. In exceptional situations where you did not know about the divorce or there were circumstances beyond your control, you can ask the court to give you more time to apply.

Changing Your Name

If you took your spouse's last name when you married or you both combined your last names, you can go back to your birth name or the name you used before you married if you wish. You can make this change at no cost to you. Check with Vital Statistics for the current procedure. Then notify the agencies responsible for all identity, bank and other cards that you are changing your name back. For example, you only need your birth certificate (which would have your former name on it) and your current license to bring to Service New Brunswick, and they can issue you a new license in your former name (for a fee). You do not need to wait for your divorce. This name change does not affect your children's name.

You may choose to change your name back officially. To find out about the current legal requirements, check out the publication ***Changing your name in New Brunswick*** at http://www.gnb.ca/0379/change-e.asp. Or for more information about changing your name, contact:

Registrar General of Vital Statistics
Change of Name Section
Suite 203, second floor
435 King Street
Fredericton, NB E3B 1E5
Telephone: (506) 453–7411

There is no longer a requirement to officially choose a surname when you marry. You may choose to change your name back to your birth name at any time; it is just a matter of changing your information (Medicare card, license, etc.). You may need to provide a copy of your birth certificate or other documentation and pay a fee to change some of your information.

Changing a Child Support Order

When you applied for your divorce, you may have requested a certain amount of support for you and/or your children. Your divorce judgment is a court order that shows how much you were entitled to receive. If the circumstances on which you based your support arrangements in the application have changed after your divorce, you may want to apply to change the court ordered amount of support. Changing an existing court order is called a ***variation***.

Often variations are applied for by filing a **Notice of Motion** (Form 37A) with the court. However, if you and your former spouse agree, you can file a Consent Order signed by both parties and accompanied by a Financial Statement and income information. The judge will consider this and may grant it. If the judge wishes to have an oral hearing, or if your spouse opposes the variation, you should consult a lawyer.

For help on variations for child support, consult the publication ***New Brunswick Child Support Variation Kit*** provided by PLEIS-NB.

Changing a Custody Order

In order to change (vary) the custody arrangement that the court ordered when it granted your divorce, a change of circumstances must have occurred. The court will not vary the order otherwise. If you want to apply to vary your custody order, **you should see a lawyer**. If you cannot get a lawyer and cannot come to an agreement with your spouse, see the PLEIS-NB guide called ***Applying for Custody, Access & Support in New Brunswick***.

Appendix 7: Other Useful Family Law Publications

Stay Informed

PLEIS-NB can provide you with other information about family law. For copies of these publications, contact PLEIS-NB at the address below.

- ***The Marital Property Act of New Brunswick (free)***
- **Domestic Legal Aid (free)**
- ***Custody & Access in New Brunswick (free)***
- ***Divorce Law: Questions and Answers (free)***
- ***For the Sake of the Children (free)***
  A free information program for parents living separately – **1-888-236-2444**
- ***Family Support Orders Service (free)***
- ***Court-ordered Evaluations Support Program (C-OESP) (free)***
- ***Living Together (free)*** (Explains rights and responsibilities of common-law couples)
- ***Child & Spousal Support (free)***
  - Questions *and* Answers
  - What you should know about enforcement if you *pay* support
  - What you should know about enforcement if you *receive* support
  - What you should know about the new *tax rules* and *guidelines* on child support
- ***How to Apply for Custody, Access & Support in New Brunswick ($10)***
  A guide to the procedure of applying for custody, access and support for parents who cannot reach an agreement and cannot afford a lawyer. There is a charge for this guide.
- ***New Brunswick Child Support Variation Kit (free 1 copy)***
  A kit for parents with an existing child support order, who wish to vary support because of substantial change in circumstances.
- **Financial Statement and Income Information *(free)***
  Explains income information and how to complete a Financial Statement (Form 72J)

Please contact us at:
PLEIS-NB
P.O. Box 6000
Fredericton, NB
E3B 5H1

Telephone	(506) 453-5369	Email: pleisnb@web.ca
Toll-free	1-888-236-2444	website: www.legal-info-legale.nb.ca
Fax	(506) 462-5193	

FEEDBACK SURVEY: DOING YOUR OWN DIVORCE IN NEW BRUNSWICK

Your feedback on this guide is very important to us. It was developed to help individuals apply to the court for a divorce when they have already settled all their family law matters and do not expect their spouse to contest the divorce. How well did we do? Please take a few minutes to answer these questions.

1. **How did you find the format of the guide?**
____ easy to use ____ difficult to use ____ could be improved

Comments:_____
_____
_____

2. **Were the directions in this guide**
____ clear? ____ somewhat clear? ____ difficult to understand?

Comments:_____
_____
_____

3. **Were the examples of forms and documents helpful and easy to follow?**____ Yes ___ No

4. **Were you able to use the guide to do your own divorce?** ____ Yes ____ No

5. **Did you ask anybody for help using the guide?** _____Yes _____No

If yes, who helped you:_____
_____

6. **We are interested in your general comments as well. Please give us your ideas, opinions, comments, and suggestions for improvement of the Divorce guide.**

_____
_____
_____
_____

Thank you very much for your cooperation! Please forward your response to:

Public Legal Education and Information Service of New Brunswick
P.O. Box 6000
Fredericton, NB E3B 5H1

Telephone: (506) 453-7958 **Fax: (506) 462-5193** **Email: pleisnb@web.ca**

FORMULE DE COMMENTAIRES
OBTENIR SON PROPRE DIVORCE AU NOUVEAU-BRUNSWICK

Vos commentaires au sujet de ce guide sont très importants pour nous. Le guide a été conçu de façon à vous aider à présenter une requête en divorce au tribunal lorsque vous avez déjà réglé toutes les questions liées au droit de la famille et que vous ne vous attendez pas à ce que le divorce soit contesté. Avons-nous atteint notre objectif? Veuillez prendre quelques minutes pour répondre aux questions suivantes :

1. **Comment avez-vous trouvé le format du guide?**
____ facile à utiliser ____ difficile à utiliser ____ pourrait être amélioré

Commentaires :
_____
_____
_____

2. **Les directives fournies dans le guide étaient-elles :**
____ claires? ____ passablement claires? ____ difficiles à comprendre?

Commentaires : _____
_____
_____

3. **Les exemples de formules et de documents étaient-ils utiles et faciles à suivre?**
____ Oui ___ Non

4. **Vous êtes-vous servi du guide pour obtenir votre propre divorce?** ___ Oui__ Non

5. **Quelqu'un vous a-t-il aidé à vous servir de ce guide?** ____ Oui___Non

Le cas échéant, qui vous a aidé?
_____
_____

6. **Veuillez également nous faire part de vos commentaires généraux (idées, points de vue, suggestions d'amélioration).** _____
_____
_____
_____

Nous vous remercions de votre collaboration! Veuillez faire parvenir votre formule à l'adresse suivante :

Service public d'éducation et d'information juridiques du Nouveau-Brunswick
Case postale 6000
Fredericton (Nouveau-Brunswick) E3B 5H1
Téléphone : (506) 453-7958 Télécopieur : (506) 462-519 Courriel : pleisnb@web.ca